SENATE—*Tuesday, April 18, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado.

The PRESIDING OFFICER. Today's prayer will be offered by the guest chaplain, Dr. Sam Wooldridge, of Calvary Bible Church in St. Mary's, WV.

PRAYER

The guest chaplain, Dr. Sam Wooldridge, offered the following prayer:

My dear Heavenly Father, we ask that You give to these men and women the wisdom to be able to lead our Nation today in all the decisions that they will make, and we pray that You will give them the divine wisdom that our Nation once again will be a nation under God as it is today. We pray that You will speak to them as they lead, Father, to make the proper decision realizing their positions are appointed by God. Father I pray that our Nation in all of its endeavors and policies will be a nation that will be pleasing to Thee. Guide us, we pray, dear Father, and those that are so infinitely involved with the direction of our country and, yes, with the direction of Christianity in the now known world. Bless these men and women, I pray today, in Jesus' name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 18, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TIMOTHY E. WIRTH, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WIRTH thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning, following the time for the two leaders, there will be a period for morning business not to extend beyond 9:30 a.m. At 9:30, the Senate will resume consideration of S. 774, the Federal savings and loan reform bill.

I ask that all Senators and Senators' legislative aides who may be listening at this time to pay careful attention to what I am about to say. As of this moment, no amendments have been offered to the pending legislation. Two amendments have been left at the desk and have been printed. Other Senators have indicated an intention to offer amendments.

As I have said many times, therefore, it should come as a surprise to no one. It is my hope that we can complete action on this bill by tomorrow. That means that Senators who wish to offer amendments, Senators who intend to offer amendments, must do so. If no Senators come forward to offer amendments, then we will move to third reading, and to final passage of the bill.

We cannot simply remain suspended indefinitely in a state of inaction until Senators are somehow moved to come to the Senate floor to offer their amendments. If there is one criticism I have heard of the operations of the Senate by Senators themselves, it is the inordinate delay that occurs when legislation is pending. Senators ask that no action be taken because they want to offer an amendment but then refuse to come to the Senate floor to present their amendments.

So I want to put all Senators on notice so there can be no subsequent complaint of surprise or lack of proper notice that we are going to go to the bill at 9:30 this morning. The expressed, and repeatedly publicly stated purpose for doing so was to complete action on the bill. That cannot occur if Senators are unwilling to come to the Senate floor to present their amendments. In those circumstances the only alternative left is to move to third reading, and to a vote on final passage of the legislation.

So if any Senator has an amendment, he or she should now be prepared to come to the Senate floor at 9:30, or as soon thereafter as possible, to present the amendment. If no Senator does so, every Senator should understand that we are going to move to third reading, and complete action on the legislation.

Having now repeated myself four times in the last 5 minutes, I hope I have made my intention unmistakably clear so that no Senator will be able to later validly claim that they were unaware of what was to occur and what will occur.

Mr. President, in the event that Senators do come forward with amendments, Senators should be on notice that rollcall votes are possible throughout today's session extending into the evening as necessary. The Senate will stand in recess from 12:30 p.m. to 2:15 p.m. today to accommodate the party conference luncheons.

RESERVATION OF LEADERS' TIME

Mr. MITCHELL. Mr. President, I reserve the remainder of my leader time, and I also reserve the leader time of the distinguished Republican leader.

I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m. with Senators permitted to speak therein for not to exceed 5 minutes.

Mr. LAUTENBERG addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Chair.

(The remarks of Mr. LAUTENBERG pertaining to the introduction of S. 816 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 816 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

REPORTERS NEED TO READ THE BUDGET

Mr. SANFORD. Mr. President, Sunday's shows teed me off again. I am constantly amazed that the hosts of the media's public affairs shows, and the hot shot economists whom they summon for their learned thoughts, and news people generally, apparently have never looked at the Federal budget documents. They continue to speak in outraged terms about interest at 15 percent of the budget, and they report with straight faces that the deficit has been reduced, and they seem to take seriously the Gramm-Rudman-Hollings figures.

They do not do research. They parrot self-serving news releases.

They can look at the budget document entitled "Historical Tables," section 7, and find that the deficit in 1988 was $255 billion, that it will be $268 billion in 1989, and that there is no end in sight to constantly increasing deficits. And they will find there has been no decrease at all, only an increase in Social Security and the interest paid on Social Security, both being used to conceal large parts of the real deficit.

They could find a lot more if they tried. They could find that interest was not 15 percent of the budget, but 20 percent, and if they bother to calculate interest paid against tax dollars collected for governmental operations—leaving out Social Security which is not available for paying interest or other costs of Government—they would be shocked. It is a fact that we pay for interest on the national debt about 32 cents of every tax dollar collected. They might check page 87 of the Budget in Brief, along with section 10-20 of the budget.

The public needs to know that the annual deficits are about a quarter of a trillion dollars and piling up as a tremendous debt that is draining our resources just to keep up with the interest.

We cannot expect to cure the problem if the press does not inform the public.

Mr. President, where have all the good reporters gone?

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

The Senator from Minnesota is recognized.

Mr. DURENBERGER. I thank the Chair.

(The remarks of Mr. DURENBERGER pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CAMPAIGN SPENDING

Mr. REID. Mr. President, here in Washington we attempt to anticipate scandals, wrongdoing, and problems that come up in Government.

I think if we want to anticipate problems, we would be wise to take a very hard look at campaign finance reform and stop the political posturing that is going on in this issue.

Mr. President, during the 1986 Senate elections, a number of Senators running for office were exposed to various abuses of campaign laws and we all came here resolved to address the issue immediately. But now going on 3 years later there has been no remedy, there has been no rectification, in fact, there has been no change in the campaign spending laws in this country at all.

I think it is time that we here in Washington realize that we are going to have significant problems unless something is done.

Let us take one area that has been discussed on a number of occasions on this floor—independent expenditures. Mr. President, an independent expenditure is, for example, Japanese automobile dealers spending money in a Senate race like they did in the State of Nevada.

In the 1988 Senate race in Nevada the Japanese automobile dealers' PAC spent over $500,000. You would think that they would spend money on issues that would be relevant to Japanese automobile dealers—perhaps commerce, or trade. But, no, they spent their money on Social Security advertisements.

Mr. President, why are the Japanese automobile dealers so worried about Social Security? I would submit, that they are not. I would suggest that they were misleading the people in the State of Nevada and other States in a blatant effort to buy an election.

Under our campaign finance laws, a political action committee can contribute $5,000 in a primary election, and $5,000 in a general election—they can give a total of $10,000 to a candidate. But here they did not do that. Because this was a so-called independent expenditure, they were able to spend over a half million dollars, much more than they could have contributed to the candidate.

I think it is imperative that we set aside political differences and party issues and arrive at a few areas that we can agree on. Certainly we can agree that foreign automobile dealers should not be able to spend a half million dollars in a relatively small State like Nevada and mislead the public.

I think we can recognize that this is not an issue that affects Democrats only. It is an issue that next time could affect Republicans, because another political action committee may decide to spend millions of dollars attacking Republican candidates. That is wrong and this Congress should do something to stop that.

Mr. President, another area that this Congress should be concerned about is with the Federal Election Commission. I think it is important that the Federal Election Commission be something more than a toothless tiger.

We criticize the Federal Election Commission, but we have not given them the tools to be more than what they are. They are understaffed. The rules that we have given them to work with are vague and misleading. The Federal Election Commission should have the power to enforce the law.

So as we look down the road, Mr. President, I think it is important that we recognize that there really is a scandal brewing, that there really are problems that are going to overshadow elections. And for those of us who were elected in the 1986 election cycle, I am certain that we never would have believed that 3 years would pass without any change in our Federal election laws. We can wait no longer.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. FORD). The Senator from Louisiana is recognized.

Mr. BREAUX. I thank the Chair.

(The remarks of Mr. BREAUX pertaining to the introduction of S. 816 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Chair, exercising his prerogative as a Senator from Kentucky, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(Mr. WIRTH assumed the chair.)

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMEMORATING THE ANNIVERSARY OF THE AIRBORNE UNITS

Mr. FORD. Mr. President, on behalf of myself and Senators THURMOND and SANFORD, I am submitting a concurrent resolution to commemorate the 50th anniversary of the airborne units of the U.S. Armed Forces. July of 1990 will mark the creation of the first paratrooper units of the U.S. Army and the beginning of the "Airborne" era in American military history.

Airborne units contributed significantly to the Allied victory in the Second World War, including paratroop assaults in North Africa, Sicily, Italy, Normandy and Holland. Two of our own members were among them. As part of the 82d Airborne Division, Senator THURMOND participated in the Normandy invasion on a glider. Senator SANFORD jumped into southern France and the Battle of the Bulge as a member of the 517th Parachute Infantry Combat Team.

Airborne combat assaults—parachute jumps—were conducted in the Korean and Vietnam wars, as well as in other hostile military situations, such as the action in Grenada. Paratroopers continue to serve in various military units throughout the Army, from division-strenth units to specialized units such as Ranger Light Infantry and Special Forces Green Beret units.

Thousands of paratroopers have sacrificed their lives to protect the Republic, and thousands remain ready today to put their lives on the line for their Nation. I hope my colleagues will join me in cosponsoring this concurrent resolution and will thereby signal their strong support for the brave men on whose behalf I submit it.

Mr. President, I ask unanimous consent that this concurrent resolution be placed on the calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FORD. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

A LETTER TO THE NEXT GENERATION

Mr. COATS. Mr. President, last fall at their request, I gave an address at the University of Notre Dame's Hesburg Program in Public Service. The title of my lecture was "Falling in Love Again: Children and Families in America."

I want to commend the University of Notre Dame's concern for family issues. This dedication is revealed yet again in a recent open letter from its famous football coach Lou Holtz to the future generation.

I recommend it to all.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

(In an "Open Forum" sponsored by Volkswagen, prominent figures in American culture pass on their ideas and views to those who'll inherit the earth * * * 100 years from now.)

A LETTER TO THE NEXT GENERATION FROM LOU HOLTZ, NOTRE DAME'S WINNING HEAD COACH

GREETINGS: This salutation was used because it was the customary way our government informed its males over 18 that their talents and abilities were needed to ensure the country's future security.

During my teen age years, I was of the opinion that the future and security of this country would be dictated by the combat readiness of our military forces. However, as I grew older and my eyesight diminished, I became increasingly aware that our greatest enemy is ourselves. I will never forget a cartoon of Pogo that said, "We have met the enemy and they is us." So many times we focus on the external problems of our culture when, actually, the vulnerability of most societies lies within. As long as we remain strong within, I feel our future is secure.

Our country has many outstanding assets—in both natural resources and people. This has made it possible for the U.S. to hold an international position of leadership for many years. However, I believe our focus of attention should be upon the future. I am basically an optimistic person, but from time to time, I am concerned about our ability to produce great leaders for the future. My concern falls into one main category and that is family.

The basis of any society is the strength of the family. This is true in 1989 and for sure, it will hold true in the year 2089. I am convinced that you will have many comforts of life due to inventions that we do not have, but that is to be expected.

As I write this, I am thinking that you will look back at our generation and refer to our times as the "dark ages," since the strength of a society is not found in the comforts of living but in its values, morals and concern for its fellow man. And I believe that these principles are predominantly developed in the family. The family is where our healthy values are formed and shaped, yet the chance of this happening is greatly reduced in a one-parent home. I am not saying that single parents aren't able to raise healthy children, since many great people come from single-parent homes. But I think it is safe to say that it is much easier to achieve a healthy society when children have two parents to look up to.

There is also a strong tendency these days for many parents to be overly concerned about their own careers. Too often parents achieve professional success at the expense of their families, especially their children. I say this from personal experience, because I am probably as guilty as anyone in this area and I deeply regret it. I am fortunate, for my wife's career has been to raise our children, and she has been very successful in this endeavor.

Any successful endeavor starts with a dream and a willingness to work, and this is usually the result of a positive attitude toward yourself. Only when you like and respect yourself can you develop a concern for your fellow human being.

Generally, when we are little, it is unnatural for us to like and respect other people; these qualities have to be taught and developed. An infant is basically selfish, undisciplined and unmotivated. Give him a toy and he'll claim it as his immediately; he won't wish to share it with anyone. The qualities that we admire in people—honesty, cheerfulness, thoughtfulness, cooperation—must be learned in our home and developed by society. Our future, in my humble opinion, is contingent upon parents successfully developing these qualities so we can evolve into responsible, intelligent, compassionate adults.

I know of no greater challenge or more important role in life than preparing our children to take their place in society as contributing citizens. We cannot relinquish this most important responsibility to gang leaders, drug dealers or even our own Government. I do believe that these qualities can best be nurtured in the church of your choice. If you help your children become aware of their real strengths and raise their self esteem, I firmly believe that our future is secure. I believe that this can be done only when we raise our children to become trusted citizens who care about other people and are committed to excellence.

One thing that I hope that you will not find in your generation is drugs. If you do, there's a chance that there isn't going to be a future generation. Nothing can destroy individuals or our country as quickly as drugs. It is not confined to a segment of our society, and it has created more damaged than anything else I have witnessed in my lifetime. I have never heard a successful man or woman get up and say, "I owe my success to drugs and alcohol." Yet I know of thousands of people who have said publicly, or in the press, that they have ruined their lives because of drugs or alcohol. Neither space nor time allow me to go into my feelings about this dreaded habit, but suffice it to say that the Government can't stop it, the police can't—but the family can.

When I was asked to write an open letter to the next generation, I hesitated because there are people far more eminently qualified to do this than myself. Your reaction to this article may be that Lou Holtz wasn't very smart, and this would be accurate. But I am convinced that if our generation leaves you a better world than the one we found, it will be because we have provided strong family leadership for our children—and given you, the children of the future, a better world in which to live and grow.

As Oliver Wendell Holmes said, "What lies behind and what lies ahead of us is of little importance when compared to what lies within." If trust, commitment, and love lie within your generation, you will know that our family values were strong.

LOU HOLTZ.

FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of S. 774 which the clerk will report.

The legislative clerk read as follows:

A bill (S. 774) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of the Federal financial institutions regulatory agencies, and for other purposes.

The Senate resumed consideration of the bill.

Mr. RIEGLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. RIEGLE. I thank the Chair.

We are starting early this morning at the request of the majority leader so that we might move through the savings and loan FSLIC legislation today with the thought that, if necessary, we will be in late this evening, as the leader announced yesterday.

We have at the outset a matter that is really extraneous to the savings and loan issue, but, as the rules of the Senate allow, any amendment can be offered. The Senators from Pennsylvania and Washington have a sense-of-the-Senate resolution relating to the prospective D.C. jail that they wish to offer now. In the understanding that we have with them, this discussion will take a very brief period of time. Senator SPECTER indicates that he does want a rollcall vote on this.

So within a matter of a very short space of time, that issue will be put to a vote, and then we will proceed directly to amendments that will be germane and relate directly to the S&L bill. With that, I yield the floor.

Mr. SPECTER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

AMENDMENT NO. 49

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] for himself, Mr. ADAMS, Mr. FOWLER, Mr. GRAMM, and Mr. WARNER, proposes an amendment numbered 49.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following:

Since the Congress of the United States appropriated $50 million between fiscal year 1986 and fiscal year 1989 to construct a correctional treatment facility in the District of Columbia;

Since the construction of an 800-bed correctional treatment facility for the District of Columbia has been delayed because of pending litigation preventing the destruction of a building on the grounds of D.C. General Hospital which currently occupies the site of the proposed correctional treatment facility, pending a determination of whether the building is eligible for the National Register;

Since the Congress in September 1987, suspended all construction activities pending the outcome of an archeological survey and alternative site review. And that the Congress, in May 1988, informed the District of Columbia that it could proceed with this project;

Since the problem of crime generally and drug-related crime specifically has accelerated in Washington, DC, so that Washington has been referred to as the "murder capital of the United States" with 150 homicides having been committed in the District of Columbia since January 1, 1989;

Since a major Federal effort has been initiated on the drug-related crime problem in Washington, DC, as articulated on April 10, 1989, by Attorney General Richard Thornburgh, Housing and Urban Development Secretary Jack Kemp and Director of National Drug Control Policy William Bennett;

Since, the Mayor of Washington, DC, Marion Barry, Jr., in prepared testimony before the District of Columbia Subcommittee of the Appropriations Committee on April 17, 1989, at page six stated: "Finally, in the area of emergency assistance we request the help of the Committee to lead an expedited effort to clearly (perhaps legislatively) state the sense of the Congress that the long delayed 800 bed prison construction project in Southeast Washington is a local initiative being undertaken with a special federal appropriations. Currently, construction is delayed because of a court interpretation that the project is a federal initiative and, therefore, subject to review under federal historical preservation laws. Clarification by the Congress should be helpful to the Court in deciding that the project is local and need not be delayed further."

Since, at a hearing on April 17, 1989, Mayor Barry reiterated his request for a sense-of-the-Congress resolution as an aid to assist the District of Columbia in the construction of the 800-bed correctional treatment facility;

Since, the issue is in litigation in the case of *Flossie E. Lee, et al.* vs. *Richard Thornburgh, et al.* (89-0421), U.S. District Court for the District of Columbia, with a hearing schedule for May 18, 1989.

Since, the Congress expresses no opinion on any underlying legal issue which is the sole province of the Court, but does express its sense of urgency that the 800-bed correctional treatment facility be constructed at the earliest possible time consistent with other provisions of law.

Now, therefore, be it declared that it is the sense of the Congress that the 800-bed local correctional treatment facility be completed at the earliest possible date to assist against crime generally and drug-related crime specifically.

Be it further declared that Mayor Barry and all other officials of the District of Columbia be urged to move ahead as expeditiously as possible with all aspects of the local program directed against crime generally and drug-related crime specifically including but not limited to the construction of local prison and jail space including the 800-bed prison.

Mr. SPECTER. Mr. President, at the outset, I thank the respective member and ranking member for allowing me to offer this sense-of-the-Senate resolution. It is being offered at this time because it is a matter of some urgency relating to the construction of a prison in the District of Columbia.

This sense-of-the-Congress, actually, resolution is being offered at the request of Mayor Barry, who included in his prepared statement yesterday a request that there be a sense-of-the-Congress resolution on this issue to help many in getting this jail constructed. During the course of the hearings yesterday, presided over by the chairman, the distinguished chairman from Washington, Senator ADAMS, Mayor Barry renewed that request so that Senator ADAMS, Senator FOWLER, and I bring this amendment, a sense-of-the-Senate resolution, to the floor at this time. We have brought it to the floor at 9:30 at the outset of the proceedings on this bill, recognizing that it is not a matter that relates to the savings and loan bill, but have done so, as I say, because of the importance and urgency of getting it taken care of now. The urgency arises because this issue is in litigation as to a matter whether it would violate a requirement as to a building which currently exists on the site as being eligible for the National Register.

Mr. President, the history of this matter is that the Congress appropriated some $50 million between fiscal year 1986 and fiscal year 1989 to construct this jail. This initiative was undertaken at a time when this Senator was a chairman of the District of Columbia Subcommittee of the Appropriations Committee. The jail has been delayed in part because of pending litigation which prevents the destruction of the building on the grounds of the D.C. General Hospital, which currently occupies the site of the proposed correctional facility pending a determination of whether the building is eligible for the National Register.

In September 1987, the construction was halted pending the outcome of an archeological survey and alternative site review, and since May 1988 there has been no impediment to proceeding with the construction of this jail.

Mr. President, it is unnecessary for us to take the time of the Senate to articulate the need for a jail in the District considering the tremendous crime rate in the city generally and the tremendous crime rate induced by the problems of drugs.

Washington has been referred to as the "murder capital of the United States" with an astounding number of 150 homicides having been committed in the District since January 1, 1989. There has been, as we all know, a major Federal effort articulated on April 10 by Attorney General Thornburgh, HUD Secretary Jack Kemp, and the Director of drug control policy, Dr. William Bennett.

Mr. President, there may be others who would ask to join as original co-

sponsor at a later moment. We circulated the resolution late yesterday afternoon, after Mayor Barry made the request at about noon. So there may be others from subcommittee who will wish to join as original cosponsors.

Again, I thank the leader. Senator GRAMM has asked that he be added as an original cosponsor at this time.

With that, Mr. President, I yield to the distinguished chairman of the subcommittee.

Mr. ADAMS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Mr. ADAMS. Mr. President, I thank the Senator from Pennsylvania. He and I have joined in his resolution this morning, and we will be very brief, but it is very important and very urgent.

Senator SPECTER, as chairman of the District of Columbia, Subcommittee on Appropriations, had his money appropriated in 1986 and 1987, and this has simply been sitting since then. As the new chairman of the Subcommittee on Appropriations, when the Mayor, the head of corrections, and the chief of police appeared before the District of Columbia Subcommittee yesterday morning, they made it very clear that they wished to move forward.

Mr. President, this is of the utmost urgency. We had, last night, the greatest number of homicides since the Hanafi takeover in Washington, DC. We have had 150 homicides since the beginning of this year. That is more than has occurred in the city of Beirut, Mr. President. Therefore, we must move forward and show it in each action. The reason we have singled out this particular one, and the reason Senator SPECTER and I have agreed to do this—and I asked him if he would be the chief sponsor—is that he had obtained the appropriation 3 years ago.

Mr. President, the sense-of-the-Congress resolution which we are offering today makes clear that the correctional treatment facility that the D.C. Columbia government intends to build in Southeast Washington is considered a local project.

The question arises within the context of a lawsuit, as Senator SPECTER has so carefully described, that members of the neighborhood have filed in an attempt to have a building on the proposed site protected under the National Historic Preservation Act. This amendment takes no position on the merits of the legal arguments that underline this suit. Rather, it is intended to express the sense of the Congress that this project is indeed a local project. The Mayor of the District of Columbia requested help in constructing a prison on January 2, 1985, and announced the selection of this site in April 1986. The prison was planned by the local government, the contract for construction was let by the local government, the contract is being executed by the local government, and the local government is defending itself against this suit.

The Appropriations Subcommittee on the District of Columbia has provided $50 million for this project, but it is a local project. The Federal Bureau of Prisons is not involved in this project, no Federal prisoners are involved.

Mr. President, this is a local project.

Mr. President, I want to express my appreciation to Senator RIEGLE and Senator GARN for giving us this opportunity. It is necessary that we adopt this amendment now, because one of the key statements that was made yesterday—Senator SPECTER I know will echo—is that time has passed by and people have been talking about things being done, and activities have not physically started. This is a project that was started. We want to indicate there is no objection in the Senate and that there be a sense-of-the-Senate statement.

Mr. President, I hope this will be adopted and I urge its adoption.

Mr. SPECTER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, just a word or two more. We have expressed here in a statement that we do not take a position on any existing law, because that is not our function. But this sense-of-the-Senate, this sense-of-the-Congress resolution, is designed to say in as forceful terms as possible that this jail ought to be constructed now; and to the extent that there is latitude, to the extent that there may be a permissible interpretation as to the underlying litigation issue, so that this construction may go forward, that is the intent that I, as draftsman, and Senator ADAMS has cosponsored, along with Senator FOWLER and Senator GRAMM.

So we want to express that it is the sense of the Senate and the sense of the Congress, to the court, so that it will be weighed appropriately, in the context that we obviously cannot take any position on existing law.

Mr. President, there is a second therefore clause here which urges the Mayor and city officials to move ahead at full speed on this war against crime and the war against the drug-related crime problems.

We have acted, Mr. President, within 22 hours on the request made by the Mayor. The Congress has cooperated with the Mayor in providing these Federal funds in an unusual way 3 years ago. Our action today, I submit, ought to be an impetus for the Mayor and the other city officials to act with equal speed in dealing with the important crime problem and the important problem of drug-related issues.

Mr. President, I have just been handed a note that Senator WARNER is on his way to the floor with the request that we wait his arrival to speak.

I yield the floor.

Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GARN. Mr. President, Senator WARNER has requested to speak on this particular measure. However, the staff is not able to locate him at the moment.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, while we are waiting to schedule this vote, the Senator from New Mexico has asked unanimous consent that we temporarily lay aside the bill so that he might make a statement, a morning business type statement, and I ask unanimous consent that the bill be set aside temporarily for that purpose alone.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I appreciate the manager of the bill allowing me to speak as if in morning business.

(The remarks of Mr. BINGAMAN pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER (Mr. KERREY). Is there further debate on the amendment?

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, we are working to establish a time when the vote will start on the sense-of-the-Senate resolution proposed by Senator SPECTER and Senator ADAMS. Senator WARNER is here now and has remarks that he wants to make on that issue and, when he concludes, I will attempt then either to set the vote in motion or indicate the time that we will commence the vote.

Mr. WARNER. Mr. President, I wish to commend the distinguished Senator from the State of Washington and the Senator from Pennsylvania. I thank the managers of the bill for a minute or two to address their resolution.

First, Mr. President, I ask unanimous consent that I might be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I have worked with others here in the Senate for some years to try and assist the government of the District of Columbia, the several entities of that government, to construct the badly needed prison facilities here in the Nation's Capital. It is the judgment of Senators ADAMS and SPECTER that this resolution will move that prison a step nearer to reality. It is regrettable that it has taken these many years in which the D.C. government has tried to resolve the issue.

But I join with them because in my State, Mr. President, we have the Lorton facility which houses a considerable number of inmates who committed crimes in the District of Columbia. There are a number of us trying to work to try to resolve that issue. That too poses a serious problem and it is my expectation that this new prison will eventually try to relieve some of the pressures on Lorton.

Mr. President, I thank the managers for these few moments.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, we will shortly undertake a vote on the sense-of-the-Senate resolution by the Senator from Pennsylvania and the Senator from the State of Washington. Prior to doing that, there are a couple of pieces of business that we can transact here. I know that we have Senators who have amendments on the bill, including the present occupant of the chair, who are ready to bring those amendments forward, either before we have the vote on the sense-of-the-Senate resolution or immediately thereafter.

But in the interim, I want to bring to the attention of the Senate a letter dated today that I and Senator GARN, as the chairman and ranking member of the Senate Banking Committee, have just received from the Secretary of the Treasury, Nicholas Brady.

It reads as follows:

As the Senate begins consideration of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (S. 774), I want to commend you and the entire Senate Banking Committee for your swift action on this legislation. I am particularly pleased that you and your colleagues on the Committee have adopted many of the Administration's long-term regulatory reforms, including capital and accounting requirements, as well as the Administration's suggested financing mechanism.

I urge the Senate to pass S. 774 expeditiously to help restore public confidence, and to provide the additional financial and enforcement resources necessary to begin the long-term restoration of the savings and loan industry. On balance, the bill reported by the Committee is consistent with the objectives of the President's proposal. We do, however, have some reservations as expressed in the Statement of Administration Policy of April 17, 1989, which we will pursue with you in conference.

Thank you again for your strong leadership on this important issue. The Committee's rapid action and hard work have helped promote the public interest in strengthening the stability of our financial system and implementing significant and permanent reforms for the future.

Sincerely,

NICHOLAS F. BRADY.

We appreciate the letter and the spirit in which it is sent. I would hope, as we move through the day's work and take up amendments that Members may wish to bring to the floor, that we will be able to handle those as rapidly as we can today, so that later in the day we can bring this bill to a final vote.

I am hopeful that we can. We have been working with Senators on both sides, who have indicated an intention to discuss, if not present, a specific amendment to see what might or might not be possible under the circumstances we find ourselves in.

I will say that the bill that was reported unanimously by the 21 members of the Senate Banking Committee is extraordinarily complex. We have attempted to balance it in a way to create a bill that is workable and addresses the problems we face. That is why I appreciate this strong endorsement letter this morning from the Secretary.

So if any effort is made that in a material way would alter the bill or change it in a fashion that would open it up to further changes that in turn would take us off in, really, directions away from the central purpose of what has to be accomplished here, it is my intention to oppose those amendments.

I know that is the view of the members of the committee, as we have talked about it. So, I would hope that in the course of the day we can move through these matters as quickly as we can.

With that, Mr. President, we will have shortly the vote commence on the sense-of-the-Senate resolution.

I see the Senator from Nebraska is here. I know he has an amendment that he wishes to raise with respect to the bill.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Nebraska.

ORDER FOR VOTE AT 10:45 A.M. TODAY

Mr. RIEGLE. If the Senator will yield, I am informed by the majority leader that it would be best, if we were to schedule the vote on the sense-of-the-Senate resolution at 10:45. So, I now ask unanimous consent that the vote on the pending sense-of-the-Senate resolution begin at 10:45.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERREY. Mr. President, I ask unanimous consent that the amendment of the Senator from Pennsylvania be set aside so that the Senate can consider an amendment to S. 774.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 50

(Purpose: To broaden the membership and qualifications of the members of the Oversight Board of the Resolution Trust Corporation)

Mr. KERREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska, Mr. KERREY, for himself and Mr. EXON, proposes an amendment numbered 50.

Mr. KERREY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with page 322, line 11, strike all through page 323, line 17, and insert the following:

"(d) OVERSIGHT BOARD.—

"(1) MEMBERSHIP.—

"(A) IN GENERAL.—The Oversight Board of the Resolution Trust Fund shall serve as the board of directors thereof, and shall consist of—

"(i) nongovernment members, and

"(ii) 3 ex officio members.

"(2) EX OFFICIO MEMBERS.—The 3 ex officio members shall be—

"(A) the Secretary of the Treasury,

"(B) the Chairman of the Federal Reserve Board, and

"(C) the Attorney General of the United States.

"(3) NONGOVERNMENT MEMBERS.—

"(A) IN GENERAL.—The 7 nongovernment members shall be appointed by the President, by and with the advice and consent of the Senate for terms of 5 years. Not more than one of such members shall be selected from any one Federal Reserve district. Not more than 4 of such members may be from the same political party.

"(B) QUALIFICATIONS.—The nongovernment members shall have experience in banking, financing, real estate, and business management.

"(4) CHAIRMAN.—The President shall appoint a Chairman from the nongovernment members. The Chairman shall have the business experience necessary to govern an orderly disposition of the assets held by the Corporation. The Chairman, at the time of his appointment may not hold a position other than as a member of the board of directors of a financial institution, real estate firm, or trade association.

"(5) TERMS OF OFFICE, SUCCESSION, DELEGATION, AND VACANCIES.—The term of each member shall expire when the Resolution Trust Corporation is terminated. Vacancies on the Oversight Board shall be filled in the same manner as the vacant position was previously filled.

"(6) COMPENSATION.—The nongovernment members of the Oversight Board shall be compensated in the same manner as the members of the Board of Governors of the Federal Reserve System under section 10 of the Federal Reserve Act.

On page 323, line 18, strike "(6)" and insert "(7)".

On page 324, redesignate paragraphs (7) through (9) as paragraphs (8) through (10), respectively.

On page 324, line 10, strike "3" and insert "5".

Mr. KERREY. Mr. President, yesterday I rose to compliment the Senator from Michigan and the Senator from Utah and the entire Banking Committee for their work in producing S. 774.

Mr. President, S. 774 represents an unusual accomplishment on the part of the chairman and the full Committee on Banking. It is an accomplishment, as I referenced yesterday, that I believe will get a round of applause from the American people, but it will also be an accomplishment that will be greater with some anger. It is an anger that I feel as well. As I observe this $157 billion 10-year spending program, I find myself feeling a sense of sadness, but I set-aside that anger and sadness and say that we must, in fact, do this. We must appropriate the money. We must make the regulatory changes that have proposed in S. 774, and I support that action.

However, Mr. President, my amendment to this piece of legislation calls attention to what I believe is a potential scandal of immense proportions if we do not change the structure of the Resolution Trust Corporation.

This entity will be charged with liquidating the assets of at least 350 savings and loan associations. This entity will have the task of liquidating at least $100 billion worth of assets. This entity will also be charged to do this as fast as possible, but also so it that returns to the taxpayers as high a dollar as possible because, Mr. President, every dollar that we receive from the liquidation of these assets will reduce the burden upon the American taxpayer.

Further, Mr. President, not only does this entity have to liquidate these assets in an expeditious fashion, they must do it so that there is no appearance of political conflict. Above all, it seems to me, Mr. President, that we in the U.S. Senate should be concerned that we not setup an institution that will almost, be definition, have a difficult time of carrying out its objective. We do not want the work of liquidating these assets in an expeditious fashion to be brought to a halt simply because we are concerned about potential political conflicts.

Mr. President, the current structure, as proposed in the bill, has the Attorney General of the United States of America, the Treasurer of the United States of America and the Chairman of the Federal Reserve as the three principal members of this five-person board. I observe that all three of these individuals have their hands full doing other work; that they simply will not have the time to spare on what will be the largest liquidation of assets in the history of the United States of America, a job that almost defies our imagination as we attempt to understand what work will be involved.

I offer this amendment not with hostility toward the Banking Committee, but constructively believing that we need to try to liquidate these assets in a fashion that will minimize community disruption, that will minimize unwarranted profiteering or double-dipping or other sorts of scandals that potentially can occur and will finally give you and I a window of accountability because, in the end, we are the ones spending the money; we are the ones voting to spend taxpayers' dollars, and we will be asked repeatedly to account for that appropriation. And only if we have some appropriate window, as I propose, will we be able to account. Otherwise, we may be reduced, as we were earlier this year, to requesting a General Accounting Office investigation to discover what has transpired.

My proposal calls for seven board members to be appointed by the President and to have the Attorney General, the Treasurer and the Chairman of the Federal Reserve serve as ex-officio members.

It is dependent upon a strong-Chair concept. I believe, above all, the President needs to look for an individual who has the integrity and the trust of the American people so that the Resolution Trust Corporation will, in the end, be trusted by the people who will depend upon it. It is, Mr. President, I think an instance where we are at once saying to the chairman of the Banking Committee and the full committee, thank you for a job well done, but I pause in this moment as well to say I believe the potential in this corporation for scandal is very, very great and that the need for action is urgent. I thank the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, let me say that I very much appreciate the kind comments of the Senator from Nebraska, and I appreciate very much his keen interest in this bill. I must say that I and others share the very concerns that he has raised. The whole question of the Resolution Trust Corporation's handling and disposing of an unprecedented amount of assets is a matter of great importance. The initial estimates are that some $400 billion in assets will have to be managed and disposed of over time. This is clearly an enormous assignment, and the potentials for impropriety or poor management are obviously inherent in anything of this size and of this unusual nature.

But, I want to say that Members of the committee have acted to do some things that we think appropriately address those concerns. First, we have added two private members to the Resolution Trust Corporation's Oversight Board. We have also, expect the RTC to have a full-time chief executive officer, a person of extraordinary capacity, background and expertise, who can carry out that very major public assignment.

We have, also, added 12 regional advisory boards to channel input of private persons into the RTC. We have done that because of the extraordinary problems that exist in different States and parts of the country. These regional advisory boards will consult with the RTC on strategic planning, marketing strategies and procedures to dispose of assets.

So, we have given this matter very careful thought and have made changes in the administration's bill that address concerns the Senator from Nebraska has raised. We have raised the issue of the Senator's amendment with the Administration as to how they would react to the amendment. They have gotten back to us, and they indicate they would oppose the amendment. We have discussed it back and forth on the committee. We think this amendment moves beyond what we have structured. We think it goes further than we want to go at this time.

So, it will be the intention of myself, on behalf of the majority side of the committee, to oppose the amendment, with no disrespect, obviously, to the Senator from Nebraska. I yield to my colleague from Utah.

Mr. GARN. I thank the Senator from Michigan. I also must oppose this particular amendment. I understand where the Senator from Nebraska is coming from because this is a very difficult problem and undoubtedly is the greatest collection of land, buildings, and real estate that has ever been put together as a result of the S&L crisis.

We had long hours of discussion about how we do this. One of the major conclusions was there were two things that you could do wrong. You can sell the property too fast and you can sell it too slow. So how you balance that in the middle, as the chairman has outlined, is with all of these advisory boards, regional advisory boards, to take care of difficult problems in the Southwest that are different than in other areas of the country. We do feel that in the bill we have addressed this issue properly to try to achieve that balance.

Treasury does oppose it because the taxpayers of this country are on the hook for a large amount of money, eventually over $100 billion, and I do think that the balance achieved on the board now with private members but leaving control and authority with Treasury is proper when that much money is at stake. So Treasury feels they would totally lose control, and it would gut the present board. I understand what the Senator from Nebraska is attempting to accomplish, and is correct in his goal, but I do believe we have balanced it properly in the bill. Therefore, I oppose the amendment on behalf of the minority.

Mr. KERREY. Mr. President, just one final comment. Again, I want to make it clear I have a great deal of respect for the amount of work that was done to produce this legislation, and I understand that amendments of this kind need to receive the approval of many different people in order to get support of the committee. I understand as well that in the end Treasury has to sign off on this proposal and that Treasury is relinquishing under my amendment some considerable amount of authority.

But that is the intent of the amendment. I urge my colleagues to consider that a year from now a question may come from a constituent about the liquidation of an asset, a question may be raised by an investigative journalists who says, "Senator, did you receive a campaign contribution from someone who has benefited from this liquidation?"

I say to you, if you answer that question yes, the appearance of conflict is going to be awfully difficult for each and everyone of us who intend to vote for the passage of this legislation. We should, I believe, have an entity to which we can go outside of Treasury. I do not want him to have to request information from Treasury every time I have a constituent with a question about how his money is being spent and about how these assets are being liquidated. I do not want to have to wait for an annual or a biannual report before I can look to see what is happening.

I suggest, with all due respect, all of us will regret action was not taken on this amendment or something like it that requires the President to appoint a strong Chair which the people themselves will trust.

Again, I have a great deal of respect for the Chair and what has been done. I feel the concern and the urgency to make this change is very great.

Mr. RIEGLE. Mr. President, I would like to add a couple of thoughts here, and then maybe we can move to resolve this particular issue. In order to get this material into the RECORD prior to the vote, let me ask unanimous consent that the vote scheduled to start at 10:45 start at 10:50, if I may.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered. The vote will be scheduled for and occur at 10:50.

Mr. RIEGLE. I do not think that will inconvenience anyone, but I have the material I think has to be presented on this very important point that the Senator from Nebraska has raised.

On page 342 of the bill we have a section that deals with asset disposition, and we indicate and spell out in the law the following:

"(1) IN GENERAL.—The Corporation shall develop a strategic plan and shall establish and implement policies and procedures to—

"(A) maximize the net present value of the return from the assets it owns or manages;

"(B) minimize the disruption to the local real estate markets and banking and thrift communities caused by the Corporation's operations; and

"(C) provide for an adequate level of capital for the operation of the Corporation.

The plan shall provide for the disposition of assets, consistent with the above stated objectives, in the most efficient and orderly manner. Such policies and procedures shall, at a minimum, take into consideration the current local market conditions, an appropriate financing standard, the value of the asset, the potential appreciation of and the expenses and risks associated with holding the asset for a period of time, and the sources and cost of funds to further develop the asset. The policies and procedures shall also provide for adequate competition and fair and consistent treatment of third parties seeking to conduct business with the Corporation. The Corporation's books and records shall contain evidence of the Corporation's adherence to its plans, policies, and procedures.

Now, I must say that great effort has gone into devising that very specific legislative language to lay out a roadmap that we think is appropriate to this assignment.

But, let me address the question of ethical safeguards, because that is another important point and it relates to an issue that the Senator from Nebraska raises. In the committee report on page 29 under ethical safeguards concerning the Resolution Trust Corporation we say as follows:

Under the proposed legislation, the RTC is not an agency of the federal government. Given the amount of public funding provided to the RTC, the Committee is concerned by the potential for the very types of fraud and abuse that caused problems at many failed thrifts. Therefore, the bill subjects agents and employees of the RTC to ethical standards at least as high as those that apply to FDIC employees. Further, the bill makes agents and employees of the RTC (such as attorneys, accountants, appraisers, brokers, and property managers) accountable for malfeasance and subject to the same criminal penalties as FDIC employees.

That is very specific, it is very deliberate, and it is there because it needs to be there. So, we are acutely sensitive to the issue that the Senator raises.

I said earlier and I repeat again, we established 12 regional advisory boards across the country to provide a level of specific geographic input to help us understand more fully exactly what we may be dealing with in different areas of the country.

I think we have addressed this problem in a workable way. I feel we have solid provisions worked out in this area. So, I feel we would have to oppose the amendment. I have talked with members of the committee. I say to the Senator from Nebraska, at an appropriate time, I will move to table the amendment. But, I will not do so, if the Senator decides he does not want to take it forward to a vote. That will be his judgment.

AMENDMENT NO. 49

The PRESIDING OFFICER. The hour of 10:50 having arrived, under the previous order, the vote will occur on the sense-of-the-Senate resolution. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] is absent because of illness in the family.

Mr. SIMPSON. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 45 Leg.]

YEAS—98

Adams	Biden	Boschwitz
Armstrong	Bingaman	Bradley
Baucus	Bond	Breaux
Bentsen	Boren	Bryan

Bumpers	Hatch	Moynihan
Burdick	Hatfield	Murkowski
Burns	Heflin	Nickles
Byrd	Heinz	Nunn
Chafee	Helms	Packwood
Coats	Hollings	Pell
Cochran	Humphrey	Pressler
Cohen	Inouye	Pryor
Conrad	Jeffords	Reid
Cranston	Johnston	Riegle
D'Amato	Kassebaum	Robb
Danforth	Kasten	Rockefeller
Daschle	Kennedy	Roth
DeConcini	Kerrey	Rudman
Dixon	Kerry	Sanford
Dodd	Kohl	Sarbanes
Dole	Lautenberg	Sasser
Domenici	Leahy	Shelby
Durenberger	Levin	Simon
Exon	Lieberman	Simpson
Ford	Lott	Specter
Fowler	Lugar	Stevens
Garn	Matsunaga	Symms
Glenn	McCain	Thurmond
Gorton	McClure	Wallop
Graham	McConnell	Warner
Gramm	Metzenbaum	Wilson
Grassley	Mikulski	Wirth
Harkin	Mitchell	

NAYS—0

NOT VOTING—2

Gore Mack

So the amendment (No. 49) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FOWLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 50

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. RIEGLE. Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. RIEGLE. Mr. President, if I can have order in the Chamber and the attention of my colleagues, we have just finished voting on the sense-of-the-Senate resolution which was, in a sense, extraneous to the savings and loan legislation which is before us. Just prior to that vote, we had been debating a potential amendment of the Senator from Nebraska. We had pretty much concluded that discussion. I know the Senator is on the floor. He may wish to indicate what his intention is.

Before he does, I want to say to others here that we are open and ready for any amendments that anyone has ready and wishes to offer. I would be quite happy, if there were no amendments. But, those who want to present them should be prepared to do so, because we are ready to take them up in immediate order.

Mr. SARBANES. Will the Senator yield for a question?

Mr. RIEGLE. I yield to the Senator from Maryland.

Mr. SARBANES. Does the Senator have any notion of how many amendments in fact might be pending which would have to be considered with respect to this legislation?

Mr. RIEGLE. Yes.

I might say that, since the bill was reported and the report was available, we have been working with a number of Members both on the committee and off, who have expressed an interest in possible amendments. Some formal amendments, we think, will be offered.

At last count it looked as if we had the potential for as many as maybe 17 amendments. Two of the Senators on that list of 17 had more than one item that they might raise.

But, discussions are ongoing, and I think it is fair to say that not all of the amendments will be offered, although some will be.

We are quite interested in taking them up in an orderly fashion and having the Senate work its will.

We do want to try to finish the bill this evening.

Mr. SARBANES. That was my next question to the chairman. What was his intention, if it is achievable, in terms of completing action on this measure?

Mr. RIEGLE. The majority leader has said that he wants to move as rapidly as possible on this legislation. He hopes to finish it today. He has indicated that we should plan to have a late evening, if that is required, with the hope of finishing the bill. We are ready to move along on these issues.

I am hopeful that we will be able to complete it today, but I cannot presume as to what the will of the Senate will be.

Mr. SARBANES. Has developing time agreements with people who want to offer amendments been explored or have we been able to develop a scenario of dealing with amendments and completing them?

Mr. RIEGLE. Discussions are underway now with Members who are considering the possibility of offering amendments. I do not think we are at a point now where time agreements would be the most useful course of action, because we may or may not have amendments being offered. Certainly, if we reach the point where it seems sensible to try to lock in a time agreement or seek one on the remaining amendments that will be offered, we will certainly consider doing that.

Mr. SARBANES. Mr. President, I simply want to support the chairman in his effort to try to get Senators to decide on offering amendments—hopefully decide not to—and allow the committee's product to move forward so we can act expeditiously on this legislation.

I think the chairman and the ranking member, and if I may say so, I think the other members of the committee on which I am privileged to serve have done a very effective job of working through this legislation. I think we need to move it as promptly as we can.

I know that the majority leader has a scheduling situation in which I think he anticipates the Senate will recess on time, I believe, and obviously we need to finish this legislation before that takes place, and I think if we can just get Senators who want to offer amendments to come to the floor and offer them and have a reasonable debate, and then dispose of them one way or the other and move through this matter, I would hope we could meet with the kind of schedule that the chairman has outlined.

Mr. RIEGLE. I should add one other thing in response to the inquiry of the Senator from Maryland. The majority leader has also said that he feels the need for the urgency of moving this legislation today, and that, if he were to find that periods of time were elapsing without amendments being offered, he would be prepared to move to a third reading.

I do not mean to speak for him, but I am paraphrasing what he has indicated to us as leaders of the bill.

I know it is his intention to proceed through this bill as quickly as we can today and hopefully finish it today and, if not, to finish it tomorrow. But, I know he feels very strongly about having amendments handled and the bill passed.

Mr. SARBANES. At times Members, when a bill comes to the floor like this, assume that the amending process is not going to start seriously until some time later. I just think it is important to underscore we are there now and ready to deal with amendments and, in fact, there is a constraint upon us to deal with amendments and to deal with them promptly.

So I support the chairman in his effort to get members to really present their amendments so we can work through them.

Mr. RIEGLE. I thank the Senator from Maryland.

Mr. EXON. Mr. President, I rise in support of the amendment offered by my friend and colleague from Nebraska, Senator KERREY. I know that we want to move this bill along. I know that we have worked very hard on it. I know that we are rush, rush, rushing and there is a reason to rush, rush, rush because the more we delay this bill, the more it is probably going to cost the taxpayers in the long run.

Talking about the cost to the taxpayers in the long run is the heart and soul of the amendment that has been offered by my colleague from Nebraska.

Under the measure as it stands and came out of the committee, there are three people in the Federal Government, administration people primarily, the Chairman of the Federal Reserve

Board who with two others make the decision as to where the money should go, to what bailout, what institution with taxpayer funds.

The amendment offered by Senator KERREY from Nebraska simply says that we should appoint a board of wise men, of specialists, if you will, to make this determination.

Certainly, the Chairman of the Federal Reserve and certainly the head of the Treasury Department are extremely busy people that I suspect are not going to have the time to make considered judgment on which choice should be made between two institutions that are in some degree of difficulty.

The obvious answer might be, well, then they both probably should be helped.

If you take that line of approach, it seems to me, Mr. President, that you are failing to recognize that we are trying to conserve the $50 billion plus, and I think it will be more than that before we finish, but a minimum of $50 billion of taxpayers' money that we are going to use to bail out the ailing S&L industry.

It seems to me, Mr. President, that the businesslike suggestion made by Senator KERREY is one that should be adopted. I know the administration is opposed to this. I know that the chairman of the committee and the ranking member thereof are, therefore, opposed to it or at least they are agreeing with the administration's position.

I just do not want to belabor this point. I simply want to say let us stop, let us listen, let us look, and above all, Mr. President, let us think.

If you were setting up your money to the tune of $50 billion would you not want a board with high expertise that could take the time to make timely decisions in a timely fashion rather than to saddle that on the relatively few busy individuals as proposed by the bill?

The fact of the matter are that if this bill is adopted, signed into law as proposed, bureaucrats are going to be making the decision as to where the money goes.

Senator KERREY is simply saying that if we are going to do this let us do it right and let us appoint some experts to this board who can make a measured judgment, therefore helping to conserve the heavy burden that we are saddling on the taxpayers with this measure regardless of the outcome.

Therefore, I hope that the Senate will pay careful attention to the amendment offered by Senator KERREY and give a measured thoughtful vote on what they think is right in this case rather than what I think is a hasty decision and an ill-conceived one by the administration to oppose the Kerrey amendment.

Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, I also rise in support of the amendment of the Senator from Nebraska. One reason I do it is because I have developed such a keen appreciation for his ability and his intellect and his concern. He has been here a very short time and I do not know of any time since I have been in the Senate that I have seen a freshman Senator develop as much credibility as quickly as Senator KERREY has. So when he called me yesterday and described the amendment and told me why he felt very strongly about it, I immediately began to think about it and told him that he may not get very many votes, because I know that the committee is committed to defeating all amendments.

I have, incidentally, been in the Senate now a little over 14 years and I have never subscribed to that "let's defeat all amendments" philosophy.

Everybody knows that the chairman of the Banking Committee is one of the best friends I have in the Senate and a man I hold in the very highest esteem and regard. He has worked relentlessly and tirelessly on this bill, as has the very distinguished Senator from Utah.

But I want to remind my colleagues that one of the reasons we are here today on this bill is because there was no oversight of the S&L industry. We deregulated that industry and turned them loose. If we had said to the S&L industry that we are going to deregulate you but we are going to watch you with an eagle eye and followed up on that, we would not be here today.

And so what the very able Senator from Nebraska is saying is, let us make sure this we do not come back here 3 or 4 years from now with oversight hearings and have the Secretary of the Treasury, who is going to be the chairman of the board which is charged with the responsibility of disposing of $400 billion worth plus of assets, to have him standing in front of a committee saying, "Well, you know I was all bogged down with that Third World debt. You remember the Brady plan on how we are going to relieve the Third World of their indebtedness, I just did not have time."

I must confess, it just seems crazy to me to have the Attorney General and the Secretary of the Treasury and the Chairman of the Federal Reserve Board as a three-man board. None of those men have one additional second in their day today to take on this added responsibility of overseeing the disposition of $400 billion—plus in assets. And for every dollar they lose, it comes right out of the long-suffering taxpayers who bellied up yesterday with all that money.

Now it is one thing to stand around here on April 15 and feel sorry for the taxpayers. I felt pretty sorry for myself yesterday, Mr. President. But I realize how important our whole tax collecting system is. It is the greatest in the world.

I was in Brazil the other day—this does not have a thing in the world to do wtih this amendment—but I was in Brazil the other day and I found that one of the reasons Brazil has unspeakable poverty is because it is a national pastime to avoid paying taxes—140 million people and 5 million taxpayers. Think about it.

In this country, we have 240 million people and 100 million taxpayers. And they deserve the attention of this body in dealing with this probelm.

It is estimated that this whole thing over a period of 10 years is going to cost $157 billion. They are going to use some of that money I paid yesterday. I have a daughter starting to an expensive law school and, believe you me, all I could think about was I paid enough to put her through law school yesterday. I did not enjoy a minute of it, but I understand it.

But I do not want this body to follow that up and say, "We are going to put three men on a board to dispose of all those foreclosed assets," and those men do not have time to go to the bathroom now. And I can tell you that 4 years from now, Secretary Brady, if he is still around, is going to come before the Banking Committee and say, "Gentleman, I had an uneasy feeling in my stomach that you should not have given us that responsibility. We just did not have time to oversee it."

And the Attorney General, testifying all over this Hill every day about drugs and what we are willng to do to bring the drug problem under control; and the Federal Reserve Board, the board chairman over there, worried about interest rates. And we say, "Gentleman, you ain't seen nothing yet. Wait until we give you this responsibility."

It is silly. It is irresponsible. And this body ought to face up to its responsibility.

I am not trying to break the dike on the committee by getting one amendment passed and then all the amendments start getting substantial votes, too. But as I said, I do not belong to the school of thought that 80 Senators should have no input into the final makeup of this bill. I again follow that by saying that members of the Banking Committee are all able people, but they are not the fountain of all wisdom and the other members of this body ought to have some say so about their bill, no matter how hard anybody worked to craft it.

I am saying that a seven-man working board charged with the actual responsibility, with these three men as ex officio members—make them ex officio; I am ex officio on everything. It means you do not have to do anything—let them be ex officio members, but appoint a seven-man board that is

going to honest-to-God delve into the policies of how we are going to dispose of $400 million worth of assets.

I commend the junior Senator from Nebraska for having the idea and, frankly, having the courage to come here, in the face of overwhelming opposition, and offer this amendment. I am going to support it, and I am going to support it happily. I hope other members of this body will also.

I yield the floor.

Mr. RIEGLE. Mr. President, I think we have had a good discussion of this and we will soon be ready for disposition of the amendment.

I know the Senator from Nebraska has indicated that he would like a vote on the amendment. At an appropriate time, I will move to table the amendment. I hope that, if anybody else wants to be heard on it, they will so indicate, because I want to make sure everybody has a chance to have their say.

I do want to say, in response to the very informed and compelling remarks of my colleague, who just spoke, my good friend, Senator BUMPERS, that we have added to the proposal of the administration two private sector members. We specify that they be individuals with substantial experience in managing large business organizations involved in real estate development, finance or disposition. We have moved in the direction of broadening-out this board to add those two, along with the Secretary of the Treasury, the Attorney General, and the Chairman of the Federal Reserve Board.

I also indicated earlier, in answer to a question from the Senator from Nebraska that the Senator may not have had a chance to hear, that we also have directly addressed the question of making agents and employees of the RTC subject to the same conflict of interest rules that govern the conduct of the FDIC employee, because we want the highest possible standards, and we are very sensitive to that issue.

We have, also, of course, set up the regional advisory boards around the country in areas that have been especially hard hit—and I know the Senator's State has been hard hit—to create still an additional level of input of how we manage and dispose of RTC's assets.

I would just say one other thing: I think the Senator is correct in saying that in years past the oversight really has not been sufficient, wherever you look, starting with the regulations, the industry itself, State regulatory authorities, Congress, the executive branch, and others. I think they really were not sufficiently vigilant in terms of monitoring the buildup of problems in the savings and loan industry and blowing the whistle early a long time ago. That should have been done, and it was not done.

I can tell you this, speaking for the committee from today and looking forward, the Senate Banking Committee is going to be very aggressive in its oversight responsibilities in this area and in all other areas.

Because I think the oversight responsibility is, in many respects, as important as, if not often more important than, the initial legislative responsibilities. Because, so often when these programs or activities are undertaken by the various bureaucracies, they take on a life of their own and momentum of their own that may, in fact, not follow through on the original legislative intent. I intend to monitor these activities very carefully. If I see anything wrong, I intend to blow the whistle.

Our committee will be actively involved in that way, and if we find we have problems developing, the Senator from Arkansas will not have to go out and do the detective work himself, because I view the job of our committee to be sufficiently aggressive and on top of these things that we will spot these things and bring them to the attention of the Senate. It will be my clear intention to do so. I feel very strongly about meeting that responsibility in that fashion.

I do not know if others wish to be heard. The Senator from Illinois, I think, wishes to seek recognition.

The PRESIDING OFFICER. Senator DIXON, the Senator from Illinois.

Mr. DIXON. Mr. President, I arise, frankly, with considerable reluctance to make these remarks, because the sponsor of this amendment, in my view, is a fine new Member of the Senate. He certainly is a warm friend, and I regard him highly. Under almost any other circumstances, quite frankly, Mr. President, I would like to support his amendment.

I talked to him at great length on the telephone and on one occasion in the hallway of the Hart Building about this amendment. I know he is motivated out of a deep personal conviction that there ought to be a change in this board, that is predicated in large measure, Mr. President, on an experience he had during his exceptionally fine service as Governor of Nebraska. I am frank to say that, independent of everything that has occurred in the development of this legislation, I believe I would be inclined to suppport his point of view because of my high regard for his ability and his past experience and his outstanding service as Governor of his State.

I hear what my friend from Arkansas says. He is certainly right when he says that all the intelligence and all the understanding of this problem does not reside in the separate minds of those 21 people, however able, that serve on the Banking, Housing, and Urban Affairs Committee. And I want to further state there will be a conference on this bill, Mr. President. There are many, many differences between the House bill and this Senate bill. There will be many opportunities in the conference—and I have been in some long conferences on legislation produced by the Banking Committee—to discuss this matter further.

I want to further make the point that we have looked at the composition of these boards. We have already changed the composition of the RTC. We changed the composition of the FDIC in the future, and so we have addressed some of these problems. We have given it considerable thought and discussion.

I guess that is the point I want to make here. The chairman of this committee and ranking member have been holding hearings all spring. I would want my colleagues in their separate offices who might be watching this debate to further understand, Mr. President, that we spent 3 days in very intense discussion, from early in the morning often until late at night, in the office of the chairman, every one of us there, everyone with staff there plus the committee staff there, going through almost in exquisite detail every single item of dispute in this bill.

Let me say on this floor for the first time in this public place so the people of my State know: Some of the things I wanted to do I could not get done in those conferences. I have yielded, Mr. President, on things I fought about tooth and nail in that private conference for days. Some of these things are, frankly, the accommodations that people of different strong views finally make in the committee.

Having been involved at the very heart of the discussions on the major Glass-Steagall legislation that we marked up in committee 18 to 2 last year and that finally passed on the floor of the Senate 94 to 2. I want to declare it is a major miracle that this legislation could come out of that committee unanimously. It is absolutely a tribute to a new chairman who has given all of his time up until this very moment to the production of this bill.

I am not that crazy about parts of this bill. I tell you, left to my own device, I could walk away from this bill to some extent. I mean that. But this is the product of 21 different people stretching the whole philosophical view from the left to the right in that committee, people of strong opinions who have come to accommodations on this, sometimes out of sheer respect for the chairman of the committee and the ranking member.

Now, at the end, we were divided on that very serious issue of financing. The chairman and others felt strongly about that. Probably we had a majority in the committee—may I say this candidly—to win the position of the

Chair against the administration position so dearly held and so strongly held by the Secretary of the Treasury, who took his time to talk to me for 45 minutes on a Sunday about that one issue. And some of us yielded on that; yielded, frankly, because we felt it was what we had to do to save this bill.

Now, there is over $100 billion in debt out there. Nobody knows how much debt there is out there, Mr. President. Nobody really has any idea. It is nothing but a guesstimate, a best guess. But it is a lot.

We put all the pain in the world we could on the institutions. The taxpayers will pay for some of this, obviously. There is a lot of hurt in this, for a long time. This issue is important. It is well presented by an exceptional new member on this side who has a long, I am satisfied, and distinguished career before him in this place. It is supported by, without any question, the most eloquent Senator in this body, in a very fine speech just now. But the central issue here is: Can we stand for this bill and take it to the conference?

Now we are divided on something that appeals to us emotionally, or somehow, every time we come to this. The last time, I remember quite well, my distinguished friend from Florida, Senator GRAHAM, had a strong feeling about something with respect to the powers. Some of us thought he was probably right. I thought he was right. And I opposed him at that time for this very same reason.

Let us take a bill out of here we can stand on.

This amendment has some merit. I want to say publicly I am open, in the conference, to some further consideration of changes in the composition of this board. I like the idea of the Senator from Nebraska, that there ought to be some more independent thought in this, independent of the people that hold these big offices, Attorney General, Secretary of State, Chairman of the Fed, and I think that my friend from Arkansas is right when he says their hands are full anyway. Although one can observe that they have the right to send someone in their place to act.

So there is an opportunity for discussing this further. But if we lose on this amendment, the committee, if we lose on this first amendment that is inherent in the question of composition of this bill, every single person that comes here is going to say: You have already adopted amendments, and here is one of merit.

Now, I happen to have the responsibility of being chairman of the Subcommittee on Consumer and Regulatory Affairs of the Banking Committee. My friend from Ohio has in mind four amendments, several of which we visited many times before, all of which have appeal, particularly from the standpoint of the consumers: on free check cashing, cheaper services for the poor, and a lot of things that have merit and the Democrats love. And it is going to be my duty to oppose him shortly here. I might even be able to make a decent argument that his has as much merit as this one; maybe more.

All have merit. We are not arguing merit here. We are arguing the greater merit and the greater value of a piece of legislation this thick, on which an administration, and all of its supporters, and 21 members of this committee have spent all this spring, 22 hearings and uncounted hours of private conference and a markup.

I say do not change it. Send it to the conference. We learned from this process. I talked to the chairman before I got up to make this speech. He has said we are open to further discussions in the conference. Do not say we will do it. Do not even say we will do it as my friend from Nebraska wants it exactly, but that we are open to it.

But this is going to be the first rollcall. When the bell rings, 100 Senators are going to come over here and decide whether they want to draw a new bill or keep this one.

I want to say this, there is more hurt than compliments in this bill. When we go back home, we will defend it more than we will take compliments and applause and handshakes for it. If somebody wants to rewrite it, that is OK with me. I am personally in favor of making it the Riegle bill, I say to my colleague.

Mr. President, it is not a perfect bill. There will be some who will not like it, but it is done to the best of our ability as members of that committee after a long time and in the best way we knew how. It is a better bill than the House bill, and we will find a better bill in the conference. I think we ought to leave it alone and get to that work as quickly as we can. The majority leader, in his wisdom, has said, let us conclude it by late tomorrow afternoon before Passover. I say to that, yea, verily; let us reject all the amendments, let us vote for the bill and let us send it to the conference.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland, Senator SARBANES.

Mr. SARBANES. Mr. President, I will be very brief, and I really want to respond to my very distinguished colleague from Arkansas who I think made a very strong statement for the amendment. I agree with him that all wisdom does not reside with the committee. I have been around this place long enough to realize there is a lot of wisdom in each one of the Members of the Senate. I am perfectly prepared to accept that point. I think it is a valid point.

I want to say to the very able Senator from Nebraska who has offered this amendment, the committee, in fact, took part of the rationale that has been advanced in this amendment and in fact incorporated it in the work of the committee because we did add two independent members to this board. It seems to me we have a board now that combines two things: the perspective of independent members and a targeted responsibility on highly significant and responsible officials of the administration: the Attorney General, the Secretary of the Treasury and the Chairman of the Federal Reserve Board. So that you have in each instance individuals who head up a major establishment, highly competent as a general proposition who continue to bear an obligation and responsibility. I think that is important. I think that is very important.

One of the difficulties in the past, frankly, is we have these independent boards and they did not prove to be independent. What happens is you set up these boards ostensibly independent and then different interests seek to gain their representatives on those boards, and the consequences of a board ostensibly set up to be independent proves to be just the opposite.

Second, when you do that, you diminish the direct responsibility of the current administration, whoever it may be, for how these activities are being conducted and, of course, they obviously have a strong interest because there are potentially significant costs involved.

It seems to me that what the committee has done, which is try to blend these two things, is a sensible proposition. We have tried, in effect, to put together both some independent members of the board to bring that perspective and at the same time keep a focus and a responsibility on these major officials: The Attorney General, the Secretary of the Treasury, and the Chairman of the Federal Reserve Board.

So I am frank to say I think what the committee has done is a sensible proposition. I think it will give us an oversight board which can do the job that will combine these two perspectives that will maintain a highly responsible focus, and I am, therefore, supportive of the chairman and his response to this amendment.

Mr. RIEGLE. Mr. President, I think we have discussed this pretty fully. I would like to go ahead and quickly offer the tabling motion. I see the Senator from Nebraska and the Senator from Arkansas are on their feet, and I assume they want to speak further on it.

Mr. KERREY. If the Senator will permit me to make one final comment on it.

Mr. RIEGLE. By all means.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, with respect to the time required, I want to make it clear, if this amendment fails to pass, I do not intend to oppose the bill. I intend to support the legislation.

I want to make it clear as well, when the Senator from Illinois made the statement that he in some way prefers not to vote for this bill, I share that feeling. I share that feeling for one very important reason, and that is the people of Nebraska whom I represent do not trust what has transpired. They feel as if they have been deceived, and I think their feeling is correct. They feel as if fraud has been perpetrated upon them, and I believe they are correct. They believe that insufficient oversight occurred over the past 8 years, and I believe they are correct. They believe that when they come to me and ask for relatively small appropriations and I tell them that we have a deficit and cannot spend more money on children, more money on health care, more money on rural development, they believed that there is a hypocrisy when I have just voted for the largest spending program since the Marshall plan. They believe something has gone wrong here. Their trust in their Government, I believe correctly, has been diminished. Their trust has been diminished.

What this attempts to do is direct our attention toward the need to restore trust, directs our attention to the need for accountability, to understand what is going on so that we can answer all the questions that will be asked over the coming years as to what is happening with the disposition of the assets.

Mr. President, the presence of three people out of five from this administration will give the administration practical control over what the RTC does and will require us, we who are voting the money, to go to the administration every time we have a question and want to get it answered.

It is precisely because I believe control must be taken away to some extent from the administration that I am proposing this amendment. I find myself to some extent in the same position as the honorable chairman of the committee as not long ago being told after supporting and working hard to develop this piece of legislation, after giving so much to it, was told that his reasonable amendment change, which essentially would save the taxpayers $4.5 billion, was going to be vetoed if sent to the administration in that form. I believe, in fact, that we who are appropriating the money need to have greater accountability so as to be able to reestablish trust, and it will not be easy to do. It will not be easy for those of us who intend to support the Chair and vote for this bill to go home and explain what we have done and why they should trust us now for having spent their money this way. It will not be easy for us and I believe, Mr. President, this amendment gives us an opportunity to increase the opportunity to do that.

I thank the Chair.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. I will be very brief. I know the chairman wants to get on with this, the managing chairman of the bill. I want to just make two or three points.

No. 1, when I say that the Banking Committee is not the fountain of all wisdom, that is not intended to be pejorative or denegrating of the committee. Everybody in this body knows that this committee has been working night and day to fashion this document. But we are a deliberative body, Mr. President. To suggest that a document with 564 pages—that is thick—is somehow sacred and that every word is infallible, why, we do not have to honor the majority leader's commitment to try to finish this bill by 4 o'clock tomorrow afternoon. If that is in fact the case, we can leave now. If the other 80 Senators who are not on the Banking Committee are to have no say-so about trying to improve this document, we do not have to wait until 4 o'clock tomorrow afternoon.

I do not know when Passover starts, but we are going to leave here tomorrow night and we are not coming back; everybody is going to either go to Andrews Air Force Base and get on a plane and go home or do something else. I know how the herd instinct works around here. They can smell that adjournment hour tomorrow afternoon so everybody wants to defeat these amendments or discourage everybody else from offering one. No one wants to get overwhelmed by a vote, particularly by a freshman Senator from Nebraska. I admire his courage. He knows he is swimming against the tide with his amendment. But, Mr. President, I find it interesting that not one single word has been uttered to suggest that the amendment of the Senator from Nebraska is not an improvement over the board as constituted in the bill.

Mr. SARBANES. Will the Senator yield on that point?

Mr. BUMPERS. I will.

Mr. SARBANES. With all due respect to my dear friend from Arkansas, that is exactly the case I tried to make. Now, the Senator may not accept it, the Senator may feel that it fell short on the substance, and I have great respect for the judgment of the Senator from Arkansas, but I did not make the argument that this amendment should be rejected because there was not wisdom outside of the committee. I tried to address the amendment on its substance.

Now, I regret that that argument fell short in persuading my friend from Arkansas. I did not think it fell so far short that the assertion could be made it did not try to address the substance of the amendment in terms of arguing for the committee's position as being substantively a better position than the one contained in the amendment.

Mr. BUMPERS. Mr. President, I do not have a thing to do the rest of today and tomorrow, so I ask the Senator to make the argument for me.

Mr. SARBANES. As I told the Senator, the committee tried to combine the perspective of two independent members with continuing to put a focus of responsibility on these important officials in the administration: The Chairman of the Federal Reserve, the Secretary of the Treasury, and the Attorney General of the United States, all three of whom are backed by an extensive apparatus—in other words, highly competent people—within their departments, and we keep some burden on these officials. One of the things, as I have said, that we discovered in the past is that often the independent boards totally outside of an administration themselves become the captive of the interests and that in fact is one of the reasons that I think we have had this difficulty. That is exactly what occurs.

Now, the Senator may not agree with that, but that is a substantive argument.

Mr. BUMPERS. Let me tell the Senator one of the reasons I do not agree with it. It seems to me that the Senator from Maryland is making the argument that either he believes this board is going to fail and that we will have some high Presidential appointees, Cabinet members to hold accountable for that failure, or regardless of how it goes and particularly in case it fails, we will have somebody to call before the Banking Committee in a very highly visible position and blame them for it.

Mr. SARBANES. Will the Senator yield on that point?

Mr. BUMPERS. Not yet. Let me finish my statement, and then I will yield.

Mr. SARBANES. All right.

Mr. BUMPERS. The Senator from Nebraska is taking the very laudable, commendable, and I think sensible approach of saying let us give the board the best opportunity to succeed. Let us not worry right now about who we are going to blame in case of failure. What the Senator from Nebraska is saying is that you are putting three people on this board, the Attorney General, the Secretary of the Treasury, and the Chairman of the Federal Reserve Bank in addition to two other real

estate people, and it seems to me that the committee is arguing that is where it ought to be so we can focus the accountability.

I do not buy that. I want to improve it so that the taxpayers of America will know that they have had seven good people appointed, not to be held accountable particularly—that, too—but also to sell all of these 400 billion dollars' worth of assets for the top dollar and get every dime they can get for it so we as deliberative Senators can say to the American people we have done everything we can to protect you and to reduce the cost below $157 billion for this bailout. I just cannot think of a better argument than that.

The Senator from Illinois has stated let us take it to conference. Do not tinker with this document. It is sacred. It has been very carefully hammered out in the middle of the night. He is saying let us go to the House and go to conference with it.

Let me explain this. The House bill does not have the two real estate members in its bill. They only have the Attorney General, the Chairman of the Federal Reserve Bank and the Secretary of the Treasury. Now, under the technical rules of conferences you cannot exceed what the Senate has. I know that sometimes conferences do not work that way. They get in there and they just start rewriting the bill.

Mr. RIEGLE. Will the Senator yield just on that one point?

Mr. BUMPERS. I certainly will.

Mr. RIEGLE. The full House committee has not yet acted. They have a financial institutions subcommittee that has marked up a bill which will now go to the full Banking Committee. It is very unclear what the full Banking Committee may report out. They may very well address this issue in some fashion that we cannot anticipate, so as yet we do not really have a version from the full committee in the House with which to compare this work.

I thank the Senator for yielding.

Mr. BUMPERS. Let me say to the distinguished Senator from Michigan and the chairman of the Banking Committee, it seems to me it would be highly advisable for this body to widen the parameters so that the conference can operate within them. If we adopt the amendment of the Senator from Nebraska and put seven members on there, all appointed by the President, including naming the chairman, then you may go over to the House and find that the House only wants the three people, these three Cabinet officers, or they may want three Cabinet officers plus two others or they may agree with this. But you will have a lot more wiggle room in the conference on the makeup of this board if you adopt the amendment of the Senator from Nebraska than you will if you do not.

Mr. President, I do not want to take up all this time. I have said about all I want to say about it. I think—and it is not the end of the world for me—the Senator from Nebraska is trying to improve the bill. He is not trying to figure out who we are going to blame when it fails, and that is what the Senate ought to be trying to do. Good Lord, that makes commonsense to me. And so I intend to support it and I am going to vote for the bill when it passes. I am not going to vote against the bill. I like the bill in most parts, but I do not think it is a perfect document, I do not think it is incapable of being improved, and I do not think, if you adopt the amendment of the Senator from Nebraska, there is going to be a floodtide of amendments. Give the Senate the benefit of the doubt in being able to think and make up its mind on every amendment and not knee jerk it because there is something sacred about the document or that we have to defeat all amendments, otherwise we are not going to get out of here at 4 o'clock tomorrow afternoon.

I yield the floor, Mr. President.

Mr. SARBANES. Mr. President, I asked the Senator to yield earlier. I just wanted to make two points to him.

First of all, the existing Federal Home Loan Bank Board—we have had a lot of problems that flowed from that—is composed of three independent members. I just make that point for the RECORD.

Second, the fact that Cabinet officials can be held accountable is not in order to find someone to blame when things go wrong but I think gives you a greater likelihood that things will not go wrong since they are held accountable; the burden will be upon them to make sure that this oversight works—not only upon them but upon the establishment that backs them up, all the lawyers in the Attorney General's office, all the financial people in the Treasury, and all the economists at the Federal Reserve.

So there will be pressure on them to make this Board work because of the accountability. I think that is a very important point.

Mr. RIEGLE. I want to say, Mr. President, before moving to table the amendment, that I think the point just made by the Senator from Maryland is a very important one, and I think was persuasive to the members of the committee. That is, we want accountability very specifically attached to the highest ranking official in this Government. I dare say, when we get down the road, 6, 9, 12, 18 months from now, these two Cabinet officers and the Chairman of the Federal Reserve, who are going to have to see to it that this job is done and done in a competent fashion, will find that they have an enormous task on their hands. It will be out in the full light of day where it ought to be.

I like the idea of attaching the responsibility to the highest ranking officers in our Government. We add to that—I will not recite the whole argument—the two private members, and we have the advisory panels set up across the country to provide input and, in a sense, to be an oversight mechanism in their own way to comment and bring to light things that need to be heard, publicly or in the Congress.

I intend to see that we carry out a very aggressive oversight activity in this area, and with respect to the bill as a whole.

I think we have had a good debate. I respect the intention of the amendment as it has been offered.

I move at this time to table the amendment.

Mr. GARN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Michigan to lay on the table the amendment of the Senator from Nebraska. On this question, the yeas and nays have been offered, and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Wisconsin [Mr. KOHL] is necessarily absent.

I also announce that the Senator from Tennessee [Mr. GORE] is absent because of illness in family.

The PRESIDING OFFICER (Mr. DECONCINI). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 66, nays 32, as follows:

[Rollcall Vote No. 46 Leg.]

YEAS—66

Adams	Garn	Matsunaga
Armstrong	Glenn	McCain
Baucus	Gorton	McClure
Bentsen	Gramm	McConnell
Biden	Grassley	Mikulski
Bond	Hatch	Mitchell
Breaux	Heflin	Moynihan
Burns	Heinz	Packwood
Byrd	Helms	Reid
Chafee	Hollings	Riegle
Coats	Humphrey	Roth
Cochran	Inouye	Rudman
Cohen	Jeffords	Sanford
Cranston	Johnston	Sarbanes
D'Amato	Kassebaum	Sasser
Danforth	Kasten	Shelby
Dixon	Kennedy	Simpson
Dodd	Lautenberg	Specter
Dole	Levin	Symms
Domenici	Lott	Thurmond
Durenberger	Lugar	Wallop
Ford	Mack	Wilson

NAYS—32

Bingaman	Burdick	Graham
Boren	Conrad	Harkin
Boschwitz	Daschle	Hatfield
Bradley	DeConcini	Kerrey
Bryan	Exon	Kerry
Bumpers	Fowler	Leahy

Lieberman	Pell	Simon
Metzenbaum	Pressler	Stevens
Murkowski	Pryor	Warner
Nickles	Robb	Wirth
Nunn	Rockefeller	

NOT VOTING—2

Gore Kohl

So the motion to lay on the table amendment No. 50 was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, could we have order in the Chamber? I know the Senator from North Carolina wishes to seek recognition and I want to make sure he is able to be heard.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

THE TIME HAS COME TO REFORM AND RESTORE CONFIDENCE TO THE SAVINGS AND LOAN INDUSTRY

Mr. SANFORD. Mr. President, I rise in support of S. 774, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. There is no doubt that the crisis facing the Federal Savings and Loan Insurance Corporation [FSLIC] represents the largest financial loss any Government-related institution has ever experienced. How we could have lost the billions of dollars that we have seen flow out of FSLIC insured institutions remains, in part, an unanswered question. But the Banking Committee, under the able leadership of our new chairman, Senator RIEGLE, has spent month after month examining that question and working with the administration to develop a plan that embodies both much needed reform to ensure that we never again face this type of crisis or scandal in our financial system, with a financing package to infuse $50 billion in new funds into the system to enable us to close insolvent institutions before they drag more healthy institutions down with them.

In looking at the question of how we got into this terrible mess, I am persuaded that a number of factors, taken together, led to the massive losses we have experienced. First, I must lay the blame on the confusion I believe the Reagan administration had between deregulation and desupervision. During the early 1980's, the industry was significantly deregulated, the caps on interest rates were phased out and thrifts were permitted to expand into a broader range of activities. Such deregulation might not have proved to be the disaster that it did had the examination force and enforcement of the regulations that remained on the books been tough and effective. Instead, the examination force was severely cut back, many institutions were not examined at all, and the others were able to get around regulations through phony transactions or inflated appraisals that the examiners were unable to spot.

Such lack of supervision was accompanied by lingering problems from the interest rate pressures that the thrifts suffered when their loans were made on a long-term basis at relatively low interest rates, while the rates thrifts were forced to pay to attract deposits were significantly higher, leading to tremendous cost pressures on thrifts.

The collapse of the economy in Texas and other energy States fueled the fires of the thrift crisis, as institution after institution failed, many only after last-ditch efforts to stay alive with risky investments and high-interest rate brokered deposits. The authority to expand into risky areas was used well by some thrifts, but was terribly abused by others who either didn't appreciate the risks they were taking or didn't care about taking risks with federally insured money.

All of these factors, coupled with the out and out greed of some thrift operators, and the lack of a sufficient capital cushion, led to the tremendous crisis we are facing today. To address the problem requires some fundamental changes in a system. The time has come to restore discipline to our deposit insurance system.

In all that we have read and heard about this issue, there is one point on which the Senate should be very clear. In voting for this bill, we are not voting to bail out the thrift industry or individual thrift executives, or thrift stockholders or creditors. What we are doing is standing behind the commitment the Federal Government made in the 1930's that savings of American citizens deposited in federally insured institutions, up to prescribed limits, are safe and sound. Today is, unfortunately, the day the Senate considers a very expensive package to do just that—to ensure that savings of thousands of people throughout this country are protected if the institution in which they have placed those savings becomes bankrupt. These are losses that have already occurred, and our task is to find the funds to pay for the losses in the cheapest, most efficient manner possible, and to take steps to prevent such losses from ever occurring again.

In addition, because so much has been said and written about the fraudulent operators, and the high-flyers gambling with depositors money, I think it needs to be said that many, indeed, most of the thrift operators in this country are solid, honest managers who have not forgotten their commitment to providing housing finance. Indeed, I am proud of the large, and generally healthy and well-managed thrift industry in North Carolina. Given the large number of thrifts in the State, we have experienced very few failures, and the North Carolina thrifts remain appropriately dedicated to providing home financing through honestly prudently run institutions.

After months of hard work, the Banking Committee has brought to the Senate a package that includes new funding for the insurance fund. These new funds are directly and appropriately linked to regulatory reforms and significant strengthening of the enforcement provisions of current law. These changes will ensure that the crooks and fraudulent managers who were responsible for a considerable portion of this loss can be caught, as much money as possible recovered from them, and where appropriate, they can and will be sent to prison.

Throughout consideration of the bill, there was also an emphasis on making the thrift industry pay as much of the overall cost as possible, without causing the industry to fail from excessive payment requirements. In my judgment, this bill has certainly met that goal. Indeed, I am somewhat concerned that in adding new insurance premiums to the indsutry, at the same time that we are reducing the dividend amount that most thrifts can expect to receive from the Federal home loan banks, at the same time that we are asking thrifts to double their capital, we may be placing an excessive burden on the industry, particularly some of our smaller thrifts. Placing too heavy a burden can only, in the end, cost the Government more, as institutions that might otherwise have survived and remained profitable could be put in jeopardy.

In looking at the demands that this bill places on the thrifts, I am particularly mindful of the new capital standards the bill imposes. There is no doubt that additional capital is needed, as such capital provides a cushion against losses and should exert some discipline over thrift managers who will have more of their own money at risk. I believe that we need to be firm, but realistic, about the amount of capital and the form of the capital we are expecting the thrifts to raise. Indeed, the Senate Banking Committee did not compromise on the date by which the thrifts are expected to meet the new capital requirements, nor did it permit significant forbearance provisions to avoid the tough capital standards.

The committee did, however, provide the regulator with some flexibility in setting the risk-based capital guidelines that will apply to thrifts. This flexibility reflects the concern many of us, including my colleague Senator GRAHAM, had regarding the difficulty some thrifts, particularly smaller institutions or those located in rural areas, may have in raising capital, especially if such capital must be raised only in the form of common equity or re-

tained earnings. The committee therefore provided the Chairman of the Office of Savings Associations with the authority to deviate from the national bank risk-based standards to reflect interest rate and other risks, so long as any such deviation, when taken as a whole, does not result in a materially lower risk-based capital standard than that applicable to national banks.

The standards that are to be set by the chairman could thus take into consideration, in establishing definitions for the components of risk-based capital, the proposed regulations promulgated in December by the Federal Home Loan Bank Board, especially as regards the use of subordinated debt, preferred stock, and similar securities instruments which are long term in nature, subordinate to the interests of depositors and the insurance fund, and result in increases in an institution's available cash funds.

The bill also sets up a new structure, which separates the insurance function from the regulatory function and which separates the credit function of the Federal home loan banks from their previous supervisory role. In so doing, it leaves the FDIC as the insurer for thrifts, with a clear mandate to the FDIC that first and foremost, it is to protect the safety and soundness of the insurance fund. The bill leaves the regulation and supervision of the thrifts in the hands of the Office of Savings Associations, which will function within the Department of the Treasury in much the same manner as the Comptroller of the Currency. Finally, the credit and lending function of the 12 regional home loan banks will be left independent of the Treasury, with a new, independent advisory board. This will leave the banks with their prime mission of providing liquidity and cash advances to thrifts in order to promote home financing. The bill also permits banks and credit unions that have demonstrated an adequate commitment to housing finance to join a Federal home loan bank.

As such, the bill strikes an appropriate balance between funding the resolution of cases already in the FSLIC's inventory as well as those expected in the near future, placing important new regulatory safeguards in place, and requiring the thrifts to raise substantial private capital to shore up their financial condition.

While changes and refinements to this package will be inevitable in the coming years, I believe that the basic plan the administration sent to the committee was a sound one and that the committee's amendments have strengthened the administration's approach without fundamentally altering the basic concepts of the administration's bill. I urge my colleagues to support this legislation.

Mr. RIEGLE. Mr. President, if I may, we are open for amendments to anybody that is interested in offering one. I know the caucus luncheons will be starting shortly, but if there is someone here that has an amendment that they would want to lay down at this point and begin a discussion on, we would be happy to have it at this time.

APPOINTMENT BY THE VICE PRESIDENT

The VICE PRESIDENT. The Chair, as President of the Senate, appoints the Senator from oregon, MARK HATFIELD, to the Board of Trustees of the John F. Kennedy center for the Performing Arts, vice the former Senator from Connecticut, Mr. Weicker, pursuant to Public Law 85-874.

COMMENDING ELIZABETH (BETH) SHOTWELL-VALEO

Mr. MITCHELL. Mr. President, on behalf of myself, Senator BYRD and Senator DASCHLE, I send to the desk a resolution commending Beth Shotwell for dedicated service to the Senate and the Democratic Policy Committee upon her retirement after nearly three decades of work on Capitol Hill, and I ask for its immediate consideration.

The PRESIDING OFFICER (Mr. DECONCINI). The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 107) commending Elizabeth (Beth) Shotwell-Valeo for faithful and outstanding service to the U.S. Senate.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, on April 30, Beth Shotwell-Valeo, the chief clerk of the Democratic Policy Committee, will retire after nearly three decades of life and work on Capitol Hill.

Her long and honorable career of public service began 28 years ago in the House of Representatives. Two years later, she came to the Senate, and for the past 17 years has been chief clerk of the Democratic Policy Committee.

Beth was appointed chief clerk in 1972 by then Senate majority leader Mike Mansfield. In that post she has served three different Democratic leaders and witnessed a host of changes in the institution itself.

When she came to the Policy Committee, the Senate voting records were maintained by hand on 3 by 5 cards. Beth was instrumental in computerizing these voting records and in automating the Policy Committee's recordkeeping and publications. She also handled DPC's finances and personnel records.

Beth has performed the responsibilities of her position effectively, and with grace and dignity. She has upheld the high standards and traditions of the Senate staff and acquired the confidence and respect of all who knew her and worked with her.

On behalf of myself and Senator DASCHLE, and Senator BYRD and former Senator Mansfield, I would like to thank Beth for the devoted service she has rendered to us, to the members and staff of the Policy Committee, and to all Senators, and for all that she has contributed to the accomplishments of the Senate during her tenure.

Beth leaves with the good wishes and admiration of all who knew her, but especially those who worked with her. She leaves behind a great number of friends and colleagues who wish her the best of everything in the future.

Mr. BYRD. Mr. President, I recognize with regret the impending retirement of one of our most faithful and dedicated Senate staff members.

At the end of this month, Elizabeth Shotwell-Valeo—known to most people who work with her simply as "Beth"—will be leaving us.

Twenty-eight years ago, Beth Shotwell began working for the Congress. Twenty-six of those years have been in service to the U.S. Senate, and for 16 years, she has been the chief clerk of the Democratic Policy Committee.

In that position, Beth has worked with three Democratic leaders: Senator MIKE MANSFIELD from Montana, ROBERT C. BYRD from West Virginia, and now, with Senator GEORGE MITCHELL from Maine.

As an integral member of the Democratic Policy Committee staff, Beth has served all Democratic Senators. In that service, she has been ever accurate, efficient, helpful, and pleasant.

I know that all Senators, especially our Democratic colleagues, will join me in wishing Beth the happiest and most interesting of futures, and expressing to her our deepest gratitude for the outstanding work that she has done for so many years in a position that can be exceptionally tedious but which is one of the most important posts in a legislative body. Beth will leave behind her many friends who will remember her for the particularly fine spirit and attitude that she brought to her work, and for the meticulous patience and thoroughness that she contributed to the legislative process here in the Senate.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 107) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 107

Whereas, Elizabeth (Beth) Shotwell-Valeo will retire from the U.S. Senate on April 30, 1989,

Whereas, Beth Shotwell-Valeo has served with dedication on the staff of the U.S. Congress for 28 years, of the U.S. Senate for nearly 26 years, and as Chief Clerk of the Democratic Policy Committee for 17 years.

Whereas, Beth Shotwell-Valeo has performed her duties under three different Senate Democratic leaders with great competence, dedication, and efficiency,

Whereas, Beth Shotwell-Valeo, in carrying out her responsibilities, has gained the trust and respect of the people with whom she has worked: Now, therefore, be it

Resolved, That the U.S. Senate hereby commends Beth Shotwell-Valeo for her faithful and outstanding service to the Senate and the Nation and expresses its deep appreciation for upholding the high standards and traditions of the staff of the U.S. Senate.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Beth Shotwell-Valeo.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, under the previous order, the Senate is scheduled to stand in recess at 12:30 p.m. until the hour of 2:15 p.m. to accommodate the party conference luncheons. The distinguished Senator from North Carolina has requested the opportunity to address the Senate as if in morning business for 5 minutes.

I ask unanimous consent that there be a period for morning business until 12:35 p.m., during which the Senator from North Carolina may be permitted to address the Senate, following which the Senate will stand in recess, as under the previous order, until 2:15 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

(The remarks of Mr. HELMS pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m. this afternoon.

Thereupon, at 12:33 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. DASCHLE].

FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Chair, in his capacity as the Senator from South Dakota, suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I thank the Chair.

Mr. President, I want to indicate that we are back under way now on the savings and loan package that is before the Senate. We disposed earlier this morning of one amendment, and we have had some commentary for other Members, and so forth. I would like to encourage, as we start this afternoon, all Members who wish to either be heard on the issue or to offer amendments to come to the floor. We are open and ready for business here, and we are prepared to take up any amendment that anyone wants to offer at this time.

I yield the floor.

While we wait someone who wishes either to speak or to present an amendment, I——

Mr. GARN. If the chairman will yield, I will make one comment to follow up. There has been a great deal of discussion about the need to finish this bill. I am sure it was discussed in both Republican and Democratic caucuses, and some were saying, well, we should not have arbitrary deadlines like finishing tomorrow. I agree, Thursday or Friday makes no difference to me.

I want to emphasize why this bill needs to be finished: because it is going to cost the taxpayers $1 billion a month, month in and month out. In 1986, when the Senate passed $15 billion of FSLIC recapping 2½ years ago, we were only losing around $300 million a month at that time. I thought it was important we do something about it. Congress has lollygagged long enough. We are going to have taxpayer revolt and let it go on.

So with my colleagues who are over there with amendments, fine, bring them over. Let us discuss them, vote them up or down, and get this bill under way, not because we want to adjourn tomorrow night. That has nothing to do with it. I will repeat it every hour if I have to. This bill's lack of being passed is costing the taxpayers $1 billion a month. It may not seem much like a lot of money to some people. To a Senator from a small State like Utah $1 billion is a lot of money. We run the whole State for about $2 billion for an entire year.

I suggest there is nothing more important for those who are in their offices to come over if they have amendments and offer them so that for the taxpayers we can get this bill finished, and get to conference with the House as rapidly as possible to stop this hemorrhage of taxpayers' dollars.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SHELBY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I ask unanimous consent that excerpts of the star print of the report of the Committee on Banking, Housing, and Urban Affairs to accompany S. 774, together with additional views, be printed in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989

INTRODUCTION

On April 12, 1989, the Senate Committee on Banking, Housing, and Urban Affairs marked up and ordered to be reported a bill, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, to reform, recapitalize, and consolidate the Federal deposit insurance system and to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes.

The Financial Institutions Reform, Recovery, and Enforcement Act is a substantially revised version of a bill, S. 413, introduced in the Senate at the request of the Administration. The Committee vote was 21 ayes and 0 nays to adopt the bill and report it to the Senate for consideration as promptly as circumstances permit.

PURPOSE OF THE LEGISLATION

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (the FIRRE Act) has two major purposes. First, the legislation seeks to recapitalize the Federal deposit insurance system and to provide for the resolution of outstanding and anticipated failures of insured institutions. Second, the legislation seeks to preserve a safe and stable system of residential housing finance. The bill accomplishes these purposes by creating new administrative and financial structures for resolving failures, recapitalizing the insurance funds, and by proposing a wide range of regulatory reforms to promote the soundness and integrity of insured institutions and the deposit insurance funds.

1. Mission of the thrift industry

For over 50 years, the thrift industry has promoted home ownership through home mortgage lending. Today, thrifts are the nation's primary lenders in the housing finance market. According to the Department of Housing and Urban Development, thrifts (savings and loans and savings banks) origi-

nated nearly 54 percent of all mortgages nationwide through the third quarter of 1988. By contrast, during the same period, commercial banks and mortgage bankers accounted for 27 and 17 percent of all mortgage originations, respectively, while life insurance companies and financial institutions originated less than 2 percent of all mortgages. Savings and loans were also the largest holders of residential mortgages with 35 percent of the nation's mortgage debt. Notwithstanding various deregulatory measures adopted by Congress and the Federal Home Loan Bank Board during the 1980s, mortgage assets continue to account for 70 percent of thrifts' asset portfolios, according to the General Accounting Office (GAO).

2. Dimensions of the current crisis

Undeniably, however, the thrift industry is now in crisis. The number of insolvent thrifts has risen dramatically during the late 1980's. A variety of testimonial and documentary evidence assembled by the Committee indicates that hundreds of commercial banks and thrifts have failed during the late 1980s. Between 1980 and 1988, over 500 thrifts failed—more than three and a half times as many as in the previous 45 years combined. Hundreds more thrifts remain insolvent or appear likely to become insolvent. Although the number of bank failures is roughly comparable, the proportion of commercial banks that have failed is less. Moreover, the problem in the commercial banking industry is less severe because of the greater resources of its insurance fund, the Federal Deposit Insurance Corporation (FDIC).

3. Cost of the crisis

Thrift failures have already cost the Federal Savings and Loan Insurance Corporation (FSLIC) an estimated $78 billion this decade. In attempting to meet its obligations, FSLIC, which insures deposits maintained by the nation's thrift industry up to $100,000, has become insolvent and illiquid. And the crisis is far from over; the GAO estimates at least 338 thrift institutions, over ten percent of all thrifts were insolvent as of December 31, 1988, even though the FSLIC liquidated or merged over two hundred insolvent thrifts during 1988. Current estimates of the remaining cost to the Federal deposit insurance system of resolving the problem range from $50 billion to more than $150 billion depending on the time period and economic assumptions.

4. Need for emergency legislation

In this context, the proposed bill constitutes emergency legislation, presented to and considered by the Committee at a time of crisis in the Federal deposit insurance system and the thrift industry. President Bush has made reform and recapitalization of the deposit insurance system a top priority of his new administration. On February 6, the President announced a plan to reform and recapitalize the system. This plan formed the basis of legislation presented to Congress on February 22, 1989. Despite the monumental scale and complexity of the problems this legislation is intended to address, the Committee has expedited its consideration of the bill in view of the high priority attached to it by the President and the urgent need to staunch massive losses in the thrift industry.

a. Need for resolution and recapitalization

Numerous witnesses appearing before the Committee stressed the urgent need to recapitalize the deposit insurance system and to provide for expeditious resolution of failed thrift institutions. In early February, one witness told the Committee that insolvent thrift institutions then in operation were losing more than $500 million per month. Because they have little or no capital at risk, such institutions have few incentives to avoid high risk activities. There is a danger that such thrifts will do business on terms more prudent thrifts would neither offer nor accept. As a consequence, healthier institutions competing with such insolvent thrifts may find that they must either accept similar risk or lose business. It is virtually impossible for the regulators to contain this danger. Consequently, the continued operation of insolvent thrifts impairs the profitability of healthier institutions and the industry as a whole.

To recapitilize the deposit insurance system and provide for resolution of outstanding and anticipated failures of insured institutions the bill creates a new entity, the Resolution Trust Corporation (RTC), to serve as legal custodian of failed thrift institutions. The bill authorizes the RTC to retain the FDIC or other entities to manage its caseload. The bill also calls for the establishment of the Resolution Funding Corporation (REFCORP) to raise funds for the RTC. REFCORP is authorized to issue up to $50 billion in long-term bonds to raise the funds needed by the RTC. The principal of these bonds will be paid by the thrift industry, through premiums paid by the thrifts and mandated contributions from the Federal Home Loan Banks. It appears likely that much of the interest on the bonds will be paid by the Federal government.

b. Need for Reform

The Committee has listened carefully to those experts who, both in their testimony before the Committee and in the media have questioned the continuing utility and viability of the thrift industry. On the whole, however, the Committee found most persuasive the testimony of those experts who concluded that good reasons to maintain a separate thrift industry still exist. Essential to that conclusion, however, is the assumption that the thrift industry will continue to play a distinct economic role, distinguishable from that fulfilled by the commercial banking industry, as the primary source of residential housing finance. Thus, former Federal Reserve Board Chairman Paul Volcker pointed out to the Committee that the most successful thrifts in the industry generally continue to concentrate on home mortgage lending. Mr. Volcker supported retention of a separate thrift industry, provided the industry continues to occupy a distinct market niche.

Nevertheless, the industry's deteriorating condition clearly demands substantial reform. Individuals testifying before the Committee alleged numerous possible causes of the widespread failures of insured institutions, including loss of capital resulting from the jump in interest rates in the late 1970's and early 1980's; forbearance and inadequate supervision by federal regulators; rampant fraud among owners and managers; severe weaknesses in energy, agricultural and real estate markets, especially in the Southwest; changes in the economic and technological environment that shifted the competitive balance among the different segments of the financial services industry; flaws in the process by which Congress and the regulators deregulated the thrift industry in the early 1980s; failure to prevent excessive risk taking by state-chartered thrift institutions; flaws in the system of deposit insurance that gave risk to inadequate or perverse incentives for depositors and shareholders of thrift institutions, encouraging excessive risk taking with federally insured deposits; and various combinations of these and other causes.

The Committee cannot determine which of these factors, or what combinations of these factors, truly caused the crisis, but the current system of regulation and supervision has many flaws that must be remedied by appropriate legislation. Accordingly, the proposed bill includes a variety of reforms addressed to several aspects of the current system of oversight and insurance. Among these reforms are major revisions in the supervisory and regulatory structures; limitations on the powers of state-chartered thrifts; an assortment of measures designed to curtail excessive risk taking by federally-insured institutions; specification of more exacting capital and accounting standards; limitations on commercial real estate lending and direct investments; reductions in permissible loans to one borrower; and reductions in certain permissible loan to value ratios.

c. Concerns

The Committee believes that, in combination, these reforms will restore and preserve a system of Federal deposit insurance in which all depositors can justifiably take confidence. However, some areas of uncertainty necessarily remain and the Committee intends to monitor closely progress achieved in resolving the crisis over the next few years.

There is always the chance that additional funds could be needed to deal with the unhealthy portion of the thrift industry. Fluctuations in economic conditions could alter substantially the total cost of resolving the crisis, for better or worse. Additional deposit insurance charges imposed by the legislation on the thrift industry will help fund the cost of resolving the crisis but will also increase expenses for a troubled industry and could affect the competitive balance between thrifts and commercial banks. The asset disposition program demanded by this crisis, and established by this legislation, will be large by any standard. It is possible that alterations to the program for resolving the thrift crisis as set forth in this bill may be needed in the future. The Committee intends to pursue diligent oversight to ensure that any new or additional problems are addressed.

SUMMARY OF MAJOR PROVISIONS

1. New regulatory scheme

Under the current regulatory scheme, primary responsibility for regulation of the thrift industry resides with the Federal Home Loan Bank Board (FHLBB, or Bank Board), which, under a complex arrangement, exercises its regulatory and supervisory powers primarily through employees of the regional Federal Home Loan Banks, but not through the Banks themselves. The regional Banks, in turn, are owned by the thrifts supervised by the FHLBB. Deposits maintained by these thrifts are insured by the FSLIC, which is itself under the administrative control of the FHLBB.

Several individuals testifying before the Committee faulted this arrangement and blamed it for some or all of the current problems in the thrift industry. In particular, these witnesses noted that the scheme entails a necessary conflict of interest between the FSLIC, charged with protecting

the integrity of the deposit insurance fund, and the Bank Board, which many witnesses viewed as a promoter of the thrift industry. Compounding this problem, several witnesses felt that the FHLBB has been so close to the thrift industry that it lacked sufficient independence to competently perform its regulatory function.

The Committee believes these criticisms are well founded. The proposed bill responds to them in three ways. First, the bill removes the FSLIC from the administrative control of the FHLBB and places it under the administrative control of the FDIC. The new arrangement will not only ensure the independence of the insurance fund from the industry, but it will also provide large amounts of additional staff and expertise to the fund at a time when such resources are badly needed. Second, the bill removes the employees performing thrift regulatory functions of the Federal Home Loan Bank Board from the Banks and places them in a newly-created bureau (the Office of Savings Associations) within the United States Department of the Treasury. This removal should eliminate the potential conflict of interest inherent in the present arrangement.

Finally, the bill creates a new Federal Home Loan Bank Agency (FHLBA) to ensure the Federal Home Loan Banks perform their credit function in a safe and sound manner so that this source of strength for home financing remains viable and well capitalized. To ensure that the FHLBA maintains an appropriate distance from the industry, the bill provides for the FHLBA to be governed by three experienced persons, who shall be appointed by the President to six-year terms.

As originally proposed by the President, the legislation would also have placed the functions of the FHLBA under the administrative umbrella of the Department of the Treasury. The Committee considered this proposal carefully, but rejected it. The Committee is concerned that, because the two entities are competitors in the capital markets, there is an inherent conflict of interest between the Treasury Department and the Federal Home Loan Banks. In view of this conflict, the Committee believes the most prudent course is to maintain the current administrative independence of the Federal Home Loan Banks and provide for a new and vigorous FHLBA to make this source of home financing independent from both political and industry pressures.

2. Financing

One of the major areas of debate over the last year has been the ultimate expense of resolving the savings and loan crisis. As noted above, the range of estimates has been large, depending on assumptions. However, it has long been clear that the price would be high and that the taxpayer would bear most of that cost.

The plan proposed by the Administration would provide $50 billion to fund the resolution of roughly 500 insolvent institutions between now and 1991 and up to $33 billion for the savings and loan insurance fund between 1991 and 1999. Over 30 years it would involve total expenditures of an estimated $260 billion in gross terms, including all interest payments and roughly $50 billion for expenses of the old FSLIC fund.

The Administration plan would be funded predominantly with public funds but with a considerable industry contribution, as well. Total net outlays scored in the budget during the first years would be only $60 billion using Administration assumptions and $70 billion assuming CBO interest rates and slower deposit growth. Increased bank deposit insurance premiums would offset roughly $20 billion of these outlays. The method used to spend such large sums while holding near-term on-budget costs at this low level has been a focus of the debate over this proposal.

The Administration would keep on-budget costs relatively low by requiring $50 billion for resolution of insolvent institutions in the next three years to be borrowed in the capital markets by a government-sponsored entity, the Resolution Funding Corporation (REFCORP). REFCORP would be owned by the Federal Home Loan Banks, which would pay the principal and part of the interest on its bonds. While Treasury would pay most of the interest on REFCORP bonds over their thirty-year life, REFCORP borrowing would not be considered government funding, and only Treasury's interest payments would be scored on-budget. This feature of the plan has been very controversial.

Considerable time and attention in Committee was devoted to finding an alternative formulation of REFCORP that would be funded with Treasury borrowing and consequently less costly to the taxpayer. The Committee considered placing REFCORP on-budget and fully funded by Treasury in FY 1989. The goal of this proposal was to eliminate the anticipated 30 basis point borrowing premium that REFCORP will likely pay over Treasury borrowing in an effort to save $150 million per year in financing costs. This plan promised $4.5 billion in gross savings over thirty years or roughly $1.5 billion in present value terms.

While the cost savings and on-budget scoring of this alternative were attractive to many members, there was dispute over whether projected savings would be realized and concern over budget precedents associated with FY 1989 financing. In addition, the Administration expressed strong opposition to an on-budget alternative. Altering REFCORP financing thus carried with it the threat that the bill could fail on the floor on a 60-vote budget point of order or face a veto.

Given the overriding concern of the Committee to put new funding and real reforms in place as quickly as possible, it was decided to adopt the Administration's funding mechanism. In so doing, the Committee has provided the Administration the full funding authority it requested to deal with the crisis at hand. As noted above, however, uncertainties over the scale of the problem remain, and the Committee intends to monitor closely the progress being made in resolving the crisis and the adequacy of resources for its resolution.

ORIGINS OF THE CRISIS

By all accounts, the causes of the crisis are multiple and complex. Testimony before the Committee highlighted three sets of factors that the Committee believes contributed substantially to the industry's decline. These factors include forbearance; major changes in the economic and legal environments; imprudent industry responses to deregulation, especially the increasing involvement of thrifts in risky, nontraditional activities; and fraud and insider abuse by thrift managers.

1. Changing conditions

Traditionally, thrifts earned their profits from the "spread" between the amounts of money they received as interest payments from borrowers and the amounts they were obliged to pay in interest to borrowers. From 1966 until 1980, the Federal Reserve Board's Regulation Q governed the amount of interest banks and thrifts could pay on deposits. In addition, until close to the end of this period, investors did not widely use the close deposit substitutes that the capital markets invented. In combination, the ceiling on interest rates imposed by Regulation Q and the slow adoption of alternative investments for depositors minimized the sensitivity of the nation's depositary institutions to interest rate fluctuations and helped virtually to guarantee their profitability.

In the late 1970s and early 1980s, however, several major developments in the financial and legal environments combined to substantially erode the thrift industry's more assured profitability. First, the growth of money market mutual funds, whose rates were not limited by Regulation Q, gave many investors a higher-yielding close substitute for deposits at bank and thrifts. Second, the high interest rates of that inflationary period—at times approaching or exceeding 20 percent—gave many investors a strong incentive to move their money from low-yielding banks and thrifts to higher paying investments, such as money market mutual funds. Large numbers of investors responded to this incentive, resulting in spectacular growth for money market mutual funds and unprecedented levels of withdrawals from banks and thrifts. Moreover, because thrifts have traditionally engaged in long-term mortgage lending, much of their portfolio was tied up in long-term loans at fairly low interest rates, while the cost of their funds increased dramatically.

2. Industry response to deregulation

Alarmed by the rate of disintermediation, the regulators began interest rate deregulation in 1978 and Congress in 1980 enacted the Depository Institutions Deregulation and Monetary Control Act of 1980 (P.L. 96-221) to restore the competitive position of thrifts and banks. The Act phased out interest rate ceilings for both bank and thrift accounts and allowed thrifts to diversify into areas previously reserved for commercial banks. In 1981, the FHLBB authorized Federally chartered thrifts to make adjustable rate mortgages [ARMS].

These measures did not suffice, however, to restore the thrift industry to profitability. Although thrifts could now retain deposits by paying higher interest rates than Regulation Q previously permitted, payment of higher rates, coupled with increasing reliance by many thrifts on market-rate advances from the Federal Home Loan Banks, significantly increased the industry's cost of funds. According to the GAO, during 1982 the thrift industry's cost of funds exceeded 11 percent while the average return on mortgage holdings was under 11 percent. As a result of this interest rate squeeze, the thrift industry lost $8.8 billion during 1981 and 1982, substantially reducing the industry's capital.

In 1982, in the face of continuing concern over the industry's plight, Congress enacted the Garn-St Germain Depository Institutions Act (P.L. 97-320). That act created some new competitive opportunities for federally chartered thrifts by increasing their ability to make commercial and consumer loans. It did not expand their authority to engage in direct real estate or equity investments, however, which had been authorized in earlier legislation for up to 3 percent of assets.

When Congress gave federal thrifts additional powers in 1980 and 1982, some states followed the deregulatory model adopted earlier in Texas (which was then booming with the rise in the price of oil). These states extended the powers of their state-chartered institutions to enhance their profitability and discourage them from changing to federal charters. California, for example, enacted a very liberal set of powers in 1983.

It is easy to make mistakes when exercising new powers. An institution may enter the market too late, get only those projects that the experts avoid, be deceived or even defrauded. The new powers enticed "fast buck" artists into the industry. Some who wanted to get rich quick, bought small thrifts, had them grow rapidly, and engaged in insider lending. The owner could line his pockets and leave a bankrupt thrift to the deposit insurer.

In other instances, thrifts that were approaching insolvency used the new powers which promised high returns to gamble toward recovery. But high returns involve high risk. The many that risked and failed left the bill to FSLIC.

Given these new asset powers, particularly in state-chartered institutions, thrifts aggressively expanded their assets to diversify into new investment areas. From 1982 to 1984, thrift assets grew by nearly 40 percent, a rate substantially higher than the growth rates of either the GNP or commercial bank assets during the same period.

Evidence presented to the Committee suggests that many thrifts were not merely aggressive but imprudent in their exercise of new investment powers, using insured deposits to finance questionable, high-risk ventures. Thus, David W. Gleeson, President of the Lincoln Asset Management Company, told the Committee that "the total asset base of Texas thrifts grew from $42 billion in 1982 to $100 billion in 1986, a 250 percent increase in 4 years. What started out to be aggressive growth, led to imprudent lending fostered by greed and ended in fraudulent, questionable or irresponsible transactions in an attempt to cover all of the bad deals."

As the consequences of these imprudent and fraudulent investments came home to roost, the industry's rate of decay accelerated. Although only 21 FSLIC-insured institutions reported negative net worth under generally accepted accounting principles (GAAP) in June of 1981, by March 1988, the number had ballooned to 500 institutions. Many thrifts found they could no longer make money from their interest rate spread. Moreover, the value of their fixed rate assets had declined precipitously leaving over 90 percent of the industry insolvent on a market value basis. Such thrifts often found themselves obliged to make loans, almost regardless of quality, simply to generate actual or reported fee income with which to meet current obligations or increase reported earnings. Indeed, a review of the most "profitable" institutions of 1984 reads like a roster of today's horror stories. Federal Reserve Chairman Alan Greenspan testified that "in many cases loans were made with an eye principally focused on front end fees and without any reasonable assurance of repayment."

Throughout this period, the FHLBB with Congressional consent responded to the industry's decline by deploying a consistent policy of forbearance toward capital deficient thrifts, reducing minimum capital requirements and permitting the development and use of regulatory accounting principles (RAP) that served to artificially inflate the value of thrift capital. This policy was manifestly unsuccessful: despite forbearance, both the RAP and GAAP net worth of the thrift industry continued to decline. In February, 1987, the FHLBB announced it was unlikely to take administrative action to enforce minimum capital standards.

3. Fraud

Little doubt exists that fraud and insider abuse contributed substantially to the current crisis. According to the United States Department of Justice, the most prevalent forms of fraud and insider abuse included nominee loans, double pledging of collateral, reciprocal loan arrangements, land flips, embezzlement, and check kiting. In addition, witnesses have told the Committee of extravagant parties, exorbitant spending on frivolous corporate aircraft, lavish office suites, and numerous other squanderings of federally-insured deposit monies. "At the very least," related David W. Gleeson, President of Lincoln Asset Management Company, "there was an enormous failure of individuals to exercise their fiduciary responsibilities as managers, directors, auditors, appraisers, and lawyers. . . . The extent of irresponsible and questionable transactions was so pervasive, and reckless lending policies, wildly aggressive appraisals, and ludicrous deals were so widespread that each new round of transactions enticed the perpetrators on to larger, more complex, and more [creative] deals with an ever-increasing disregard for sound economics and market demand."

In his testimony before the Committee, United States Attorney General Richard L. Thornburgh estimated that fraud and insider abuse were involved in 25 to 30 percent of all savings and loan failures and caused over $2 billion in losses during 1988 alone. Other witnesses before the Committee estimated an even greater incidence of fraud and insider abuse.

4. Regional economic conditions

Inflation in the 1970s and the beginning of the 1980s was followed by a severe recession in 1981–82 and disinflation in commodity and producer prices. During the recession, the nation's manufacturing and agricultural sectors suffered. As the decade progressed, the manufacturing and agricultural industries recovered, but some producers of primary products, such as energy and metals continued to experience recession. These industries are heavily concentrated in the Southwest and Rocky Mountain regions.

The primary industries in these regions continued to decline after other sectors began to recover. Output and employment fell. Businesses became unprofitable and reduced their demand for plant, equipment and offices.

The primary industries most immediately affected by the regional recession laid off many of their workers. The unemployment rates in Louisiana, New Mexico and Texas, just three of the states adversely affected by disinflation, have been substantially higher than that of the United States as a whole. In 1986, for example, the unemployment rate in Louisiana approached 14 percent, more than twice the national average. As a result, the Southwest and Rocky Mountain regions ranked lowest in personal income growth among the nation's eight regions in the period 1982 through September 1988. Unemployed and under-employed workers reduced their expenditures. The recession spread to retailers and home-builders.

Some of the businesses and workers most severely affected became unable to repay their debts. Many of their banks and thrifts failed as a result.

It should be noted, however, that not all bank and thrift failures can be blamed on regional economic problems. The Far West, which ranked second highest in economic growth among the regions, experienced a disproportionately large number of failures. Moreover, there were insolvent institutions in operation in 41 states in fall 1988.

HISTORY OF THE LEGISLATION

On August 10, 1987, President Reagan signed into law the long-delayed Competitive Equality Banking Act of 1987 (P.L. 100-86). Title III of that act entitled the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987, established a new corporation, the Financing Corporation. That Corporation was to be capitalized by the Federal Home Loan Banks and was to undertake a special financing program to recapitalize the FSLIC. The Title authorized the Financing Corporation to borrow $10.825 billion to recapitalize the FSLIC, but limited the Corporation's annual borrowings to $3.75 billion. The Administration's original plan called for $15 billion to be raised.

On May 19, 25, and 26, 1988, the Banking Committee held oversight hearings on the condition of the financial services industry. Industry experts along with the regulators of banks and thrifts testified. On May 19, 1988, the Committee heard from five expert witnesses on conditions in the thrift industry and the adequacy of FSLIC's resources to deal with those problems, including Frederick D. Wolf, Director, Accounting and Financial Management Division, U.S. General Accounting Office; William C. Ferguson, CEO, Ferguson and Company, Irving, Texas; Bert Ely, President, Ely and Company, Alexandria Virginia; Stanley C. Silverberg, Special Consultant, Golembe Associates, Washington, D.C.; and Stuart Greenbaum, Strunk Professor of Financial Institutions, Graduate School of Management, Northwestern University. On May 25, 1988, representatives of each of the Federal banking regulators appeared before the Committee. These representatives included Robert L. Clark, Comptroller of the Currency; L. William Seidman, Chairman, Federal Deposit Insurance Corporation; and H. Robert Heller, Member, Board of Governors, Federal Reserve System. On May 26, 1988, the Committee heard from M. Danny Wall, Chairman, Federal Home Loan Bank Board.

Later in 1988, on August 2 and 3, the Committee held its final oversight hearings on the savings and loan industry during the 100th Congress. Administration and senior managers at important private thrift institutions came before the Committee on August 2, 1988. The witnesses included George D. Gould, Undersecretary for Finance, U.S. Department of the Treasury; Herbert M. Sandler, CEO, World Savings and Loan Association of Oakland, California; Gerald J. Levy, President, Guaranty Savings and Loan Association of Milwaukee, Wisconsin; and Donald Shackelford, Chairman, State Savings Bank of Columbus, Ohio.

On August 3, 1988, the Committee heard from a panel of three former Chairmen of the Federal Home Loan Bank Board, including Jay Janis, Chairman of the Board, Gibraltar Savings, Beverly Hills, California;

Richard T. Pratt, Chairman, Merrill Lynch Mortgage Capital, Inc., New York, New York; and Edwin J. Gray, President and Chief Operating Officer, Chase Federal Bank, Miami, Florida.

While concerns about a growing crisis were voiced by some witnesses, there was no consensus opinion that urgent action was needed to recapitalize the FSLIC fund.

In October, 1988, the Congress adjourned until January, 1989. During the adjournment period, concerns mounted that FSLIC lacked sufficient resources to close failing thrifts and that, as a result, failed institutions were losing large amounts of insured deposits. Congressional concerns heightened in late December 1988, when the FHLBB arranged 34 assisted transactions involving 75 thrifts and billions of dollars in FSLIC notes, guarantees, and tax benefits as incentives to the acquiring institutions. The FSLIC used these notes, guarantees, and tax benefits because it did not have other resources available to close failed thrifts.

As soon as the new Congress convened and Committees were organized, the Banking Committee announced several weeks of hearings to examine every facet of the problems afflicting the thrift industry in order to develop legislation to resolve these problems.

The Committee held its first two hearings of the 101st Congress on January 31 and February 2, 1989. On January 31, the Committee heard from a very distinguished panel of experts from financial firms and the academic community. These witnesses included Andrew S. Carron, Vice President of Fixed Income Research, First Boston Corporation; Lowell L. Bryan, Director and Manager of Mortgage Research, McKinsey & Company; and Professor Paul M. Horvitz, Judge James A. Elkins, Professor of Banking and Finance, University of Houston.

On February 2, 1989, the Committee heard from the Honorable Charles A. Bowsher, Comptroller General of the United States, U.S. General Accounting Office.

On February 6, 1989, the day before the Committee's third hearing, President Bush announced that he would send the Congress a major reform and financing initiative to resolve the nation's savings and loan problems. Both the White House and the Department of the Treasury immediately issued information about the plan. Following the President's announcement, the Committee held hearings focused not only on problems afflicting the thrift industry, but also on the adequacy and impact of the President's proposed program for resolving these problems.

On February 7, 1989, the Committee heard from Paul A. Volcker, Chairman, James D. Wolfensohn, Inc., and former Chairman of the Board of Governors of the Federal Reserve System.

On February 9, 1989, the Committee heard from three witnesses who testified on the issue of fraud and the savings and loan problem. These witnesses, who presented comprehensive testimony regarding fraud problems in the industry, included Richard L. Thornburgh, Attorney General, U.S. Department of Justice; David W. Gleeson, President, Lincoln Asset Management Company; and H. Joe Selby of the Insignia Company, a former Deputy Comptroller of the Currency and former senior official at the Dallas Home Loan Bank.

On February 22, 1989, the Honorable Nicholas F. Brady, Secretary of the Treasury, presented to the Committee the Administration's proposal for solving the thrift crisis. That same day, the "Financial Institutions Reform, Recovery and Enforcement Act of 1989" (S. 413) was introduced in the Senate at the request of four members of the Senate Banking Committee. Twelve additional days of hearings followed the introduction of S. 413. From that day forward, testimony before the Committee focused on specific strengths and weaknesses of the proposed legislation.

On February 23, 1989, the Committee heard from Federal Reserve Board Chairman Alan Greenspan.

On February 28, 1989, the Committee heard from Federal banking regulators including L. William Seidman, Chairman, Federal Deposit Insurance Corporation; and Robert L. Clarke, Comptroller, Office of the Comptroller of the Currency. The next day, March 1, the Committee again heard testimony from M. Danny Wall, Chairman, Federal Home Loan Bank Board.

The Committee heard testimony on March 2, 1989, about the costs and financing mechanism of the President's proposal from Richard Darman, Director, Office of Management and Budget.

On March 3, 1989, the Committee heard from three witnesses concerned with the budgeting and financing aspects of the Administration's proposal. These witnesses included James Blum, Acting Director, Congressional Budget Office; Peter Treadway, Smith Barney; and William Ferguson, Chairman & CEO, Ferguson & Company.

On March 7, 8, and 9, 1989, the Committee heard from expert witnesses representing bank, thrift, and financial associations. Witnesses representing thrift groups on March 7, 1989, included Charles John Koch, Chairman, National Council of Savings Institutions; Mr. Barney R. Beeksma, Chairman, U.S. League of Savings Institutions; Kenneth D. Seaton, Vice Chairman, U.S. League of Savings Institutions; Professor Kenneth T. Rosen, Center for Real Estate & Urban Economics, University of California at Berkeley; and Jonathan E. Gray, Research Analyst, Sanford C. Bernstein & Co., Inc. On March 8, 1989, the Committee heard from members of the banking community, including Thomas P. Rideout, President, American Bankers Association; Jay O. Tomson, President, Independent Bankers Association of America; and William Haraf, Chairman, Issues Committee, Financial Services Council. More witnesses representing views of both bank and thrift organizations appeared on March 9, namely Charles J. Zwick, Chairman, Subcommittee on Legislative & Regulatory Issues, Association of Reserve City Bankers; Frank McKinney, Chairman, Association of Bank Holding Companies; and H.M. Osteen, Jr., Vice President, Association of Thrift Holding Companies.

On March 10, 1989, the Committee heard from representatives of the home building, real estate, and mortgage banking industries. These witnesses were Kent Colton, Executive Vice President, National Association of Home Builders; Jerome Blank, Chairman, Realtors Legislative Committee, National Association of Realtors; and Willard Gourley, Jr., President, Mortgage Bankers Association.

Representatives from consumer groups and credit unions testified on March 15, 1989. Consumer group witnesses were Peggy Miller, Legislative Representative, Consumer Federation of America; Michelle Meier, Counsel, Government Affairs, Consumers Union; and Robert L. Gnaizda, Public Advocates, Inc. Representing credit union organizations were Al Williams, Chairman, Credit Union National Association, Inc.; and Kenneth L. Robinson, President, National Association of Federal Credit Unions.

State regulators testified on March 16, 1989. These witnesses were Eugene W. Kuthy, Chairman, Michigan Financial Institutions Bureau, Conference of State Bank Supervisors; and John D. Seymour, Board of Directors, American Council of State Savings Supervisors.

The Committee held its final day of hearings March 17, 1989, when it heard from three distinguished industry executives namely Herbert M. Sandler, Chairman and CEO, World Savings and Loan Association, Oakland, California; Lewis Ranieri, Principal, Ranieri, Wilson, New York, New York; and Ernest M. Fleischer, Chairman, Franklin Savings Association, Ottawa, Kansas.

In total, to prepare itself to consider and report legislation to resolve the FSLIC crisis, the Banking Committee held 23 days of hearings during which it heard from over 50 witnesses.

SPECIFIC PROVISIONS

1. Restructuring of thrift industry regulation

a. The New Office of Savings Associations

The Chairman of the Office of Savings Associations (COSA) will assume the regulatory functions of the Federal Home Loan Bank Board. The COSA will be under the authority of the Treasury Department. In contrast to the existing FHLBB, which has three members, the Office of Savings Associations will have a single chairman. All regulatory functions and rule-making authority for federally chartered and state-chartered thrifts will be vested in the COSA, except to the extent specific provisions of the bill create certain powers for the FDIC. For example, COSA will set the capital and accounting standards for thrifts, but the FDIC will have the power to review compliance with a business plan requiring capitalization of an existing investment in a thrift subsidiary.

In general, the structure of the Office of Savings Associations will parallel the structure of the existing Office of the Comptroller of the Currency. However, the Office of Savings Associations will be funded by assessments on thrifts. The Secretary of the Treasury will be prohibited from intervening in particular cases or enforcement actions of COSA.

To maintain the independence necessary to the proper performance of their offices, the COSA and the Comptroller shall be allowed to submit testimony to Congress and propose legislation without prior approval from the Secretary of the Treasury. In addition, COSA and the Comptroller shall not be subject to restrictions by review by the Office of Management and Budget. Further, the salaries of COSA and Comptroller staff are exempted from federal pay caps to allow COSA and the Comptroller to offer compensation competitive with other federal banking regulators. Although the regional Federal Home Loan Banks have never had statutory responsibility to regulate thrifts, they employ persons who acted as agents of the FHLBB. Those agents will now be employed by COSA.

b. The New Federal Home Loan Bank Agency

i. Independence from Treasury.—The new Federal Home Loan Bank Agency will suc-

ceed to the FHLBB's authority to supervise the Federal Home Loan Banks. The principal function of the Federal Home Loan Banks is to promote economical home financing by serving as lending facilities for their member institutions.

Treasury Department oversight of the credit functions of the Federal Home Loan Banks is undesirable because of the inevitable tension between the budgetary and macroeconomic policies of the Treasury Department and the Federal Home Loan Bank's mandate to facilitate economical home finance. Treasury control over the Bank's housing credit function, or a significant threat of control could interfere with the Bank's mission of making loans to savings associations, and thereby ultimately with the availability of credit to home buyers. The Committee believes it preferable to create a new independent agency in the executive branch: the Federal Home Loan Bank Agency (FHLBA). The FHLBA will supervise and oversee the Federal Home Loan Banks and ensure that the Banks carry out their housing finance mission, remain adequately capitalized, and operate in a safe and sound manner.

Under the proposed legislation, the FHLBA's Board of Directors will consist of three persons appointed by the President and confirmed by the Senate. Members of the Board will serve six-year terms, and no more than two members may be from the same political party. The members should have extensive experience or training in housing finance. The Committee intends that the Agency be a small, effective and efficient governing body.

ii. Expanded Federal Home Loan Bank System Membership.—The Committee determined that current provisions of the Federal Home Loan Bank Act inappropriately preclude certain financial institutions from eligibility to become members and shareholders of the Federal Home Loan Banks. The Committee believes that certain banks and credit unions have demonstrated a commitment to residential mortgage lending and should be eligible to become shareholders of the banks. The Committee's bill therefore broadens the range of institutions eligible to become members and shareholders of the Banks, but makes eligibility contingent upon a demonstrated substantial commitment to housing finance. Specifically, the bill requires that, to become a member of a Bank after January 1, 1989, an insured institution must be a qualified thrift lender pursuant to Section 10(e). Further, in the judgment of the FHLBA, the insured financial institution's financial condition must be sufficiently strong that the Bank may safely advance monies to the institution. Finally, the character of the institution's management and residential lending policies must comport with sound and economic home financing.

iii. Federal Home Loan Bank Directors.—Because the regulatory employees of Federal Home Loan Banks are being removed and placed into the Office of Savings Associations, the Committee saw no need to alter the basic structure of current law with respect to the election of Bank directors. The Committee believes, however, that additional consumer representation on the Banks' boards of directors is appropriate. In the last decade, the public interest directors of the Banks have not adequately represented the interests of small depositors and home buyers. Accordingly, the proposed legislation requires that two of the directors appointed by the FHLBA be selected based on their qualifications as representatives of consumer or moderate income community interest.

iv. Federal Home Loan Bank loans for the SAIF.—The Administration proposed that the Federal Home Loan Banks be required to make loans to the FDIC for the use of the Savings Association Insurance Fund, at the FDIC's direction. The Administration's bill did not, however, require that such loans be adequately secured. The Administration's bill also did not require that interest on Federal Home Loan Bank advances be payable at the Banks' current marginal cost of funds. The Committee's bill rectifies these omissions.

v. Advances.—To operate safely, soundly, and profitably, the Federal Home Loan Banks must make only fully collateralized advances, considering all appropriate lending risks, including credit, interest rate, and liquidity risks. The Federal Home Loan Banks' future earnings are important because Bank dividends represent a significant source of income to their members. Moreover, under the proposed legislation, a portion of Federal Home Loan Bank earnings will be diverted annually to help meet interest obligations on borrowings for insolvent thrift resolution. The bill permits the Federal Home Loan Banks to pay dividends to their members up to 80 percent of the Banks' net earnings, calculated without regard to the Bank's purchases of capital certificates in the Resolution Funding Corporation and the Financing Corporation. The bill also requires that long-term advances be made only for home financing purposes.

2. Qualified thrift lender test

a. Current law

The qualified thrift lender test (or "QTL test") is intended to measure a thrift institution's involvement in housing finance.

The test requires a thrift institution to hold 60 percent of its total tangible assets in: (1) loans, equity positions, or securities that are in some way related to residential real estate or mobile homes; and (2) premises, furnishings, and equipment used by the institution or its subsidiaries. Up to 10 percentage points of the 60-percent requirement may be met by counting: (a) liquid assets (e.g., money-market mutual funds and short-term, investment-grade corporate debt securities); and (b) a mortgage-origination credit.

As interpreted by FSLIC, current law gives QTL credit for assets that may have little to do with residential mortgage lending, such as: brokered deposits in other thrift institutions; offices—no matter how lavish, and regardless of whether the office has anything to do with residential mortgage lending; corporate jets used by thrift executives; equity investments in real estate, including raw land zoned for residential use; home-equity lines of credit (even if the proceeds are used to finance videocassette recorders or foreign travel); credit-card debt used to buy items for the home; bonds issued by the FSLIC Financing Corporation; and any other assets that FSLIC's staff regards as housing-related.

In addition, thrift institutions are allowed to use different accounting for the numerator of the QTL test (qualifying assets) than for the denominator (total tangible assets). Some assets that have appreciated in value are included in the numerator at market value but in the denominator at historic cost. Intangible assets (such as the value attributed to mortgage-servicing rights, purchased deposits, and branch networks) and leasehold improvements are included in the numerator but not in the denominator. Likewise, the assets of subsidiaries are included in the numerator but not in the denominator. This inconsistent accounting has the effect of watering down the QTL test.

Under FSLIC's regulations, thrift institutions must meet the current test on only 18 days out of every 3 years. This infrequent averaging facilitates manipulation.

b. Revised QTL test

Section 301 of the bill reenacts the current QTL test and increases the consequences of failing to comply. Effective July 1, 1991, section 303 revises the QTL test—maintaining the test at 60 percent but tightening the standard and making the test more rational.

i. Qualifying assets.—The revised test requires that at least 60 percent of a thrift's "portfolio assets" (as defined below) consist of the following assets related to residential mortgage lending:

(1) residential mortgage loans;
(2) residential construction loans;
(3) home improvement loans;
(4) home repair loans;
(5) mobile-home loans;
(6) mortgage-backed securities; and
(7) home equity loans, to the extent that the loans are used to purchase, refinance, construct, improve, or repair residential housing or mobile homes (the regulator will determine a general percentage to be used based on a survey of industry-wide patterns).

In addition, there is a mortgage-origination credit for one-half the dollar value of residential mortgage originated and sold during the last 90 days, which may count up to as much as 5 percentage points of the 60 point test. (This is similar to current law.)

If a loan finances both residential and nonresidential property (e.g., both apartments and a shopping mall), only the residential portion of the loan counts toward the QTL test.

Because home equity loans are often made for a purpose that is not related to residential housing, the Chairman of the Office of Savings Associations is required to determine annually the average portion of home equity loans made by savings associations that is used to purchase, refinance, construct, improve or repair residential housing or mobile homes. Savings associations may then count towards the QTL test that percentage of their home equity loans.

The bill is intended to refocus the QTL test and prevent the inclusion of other assets by regulatory interpretation.

ii. Portfolio assets.—The base against which the 60 percent of housing assets is measured is "portfolio assets." Portfolio assets consist of total assets minus:

(1) the thrift's own premises, furnishings, and equipment;
(2) liquid assets that regulators require the thrift to hold; and
(3) goodwill and other intangible assets.

Subtracting these three items from total assets ensures that they are treated neutrally: they do not count either towards the 60-percent requirement or against the remaining 40 percent.

iii. Consistent accounting.—The same accounting would be used for the numerator of the QTL test (qualifying assets) as for the denominator (discretionary assets). If a thrift institution counts the assets of a subsidiary towards the numerator then those assets will also count towards the denominator.

iv. Averaging.—To reduce the potential for manipulations the QTL test would be calculated using daily or weekly averages of a thrift institution's assets during the preceding 2 years.

v. Consequences of failing to comply.—Under the bill, a thrift institution that persistently fails the QTL test will not be eligible to receive Federal home loan bank advances and must eventually become a bank. In addition, as under current law, a unitary thrift holding company may conduct a broader range of activities if its subsidiary thrift institutions meet the test.

vi. Effect on industry impact.—According to statistics produced by both the Federal Home Loan Bank Board and the GAO, the effect of the new test on the thrift industry will be significant but not dramatic. For example, according to the Bank Board's statistics, 83 percent of the assets of the thrift industry are in institutions that pass the current test, while institutions with 76 percent of the industry's assets would pass the proposed test.

vii. Effective date.—The new QTL test will not become effective until July 1, 1991.

3. Changes in thrift powers

a. Changes in powers of federally-chartered thrifts

Like the Administration's proposal, the Committee's bill does not change the *types* of activities and investments permitted for federal thrifts. There is a change, however, in the *amount* of permissible commercial real estate lending.

i. Lower commercial real estate loan limit.—Under current law, a federal thrift may make commercial real estate loans of up to 40 percent of assets, regardless of whether the thrift has any capital at all. The proposed legislation changes the standard so that a federal thrift may only make commercial real estate loans up to 4 times the thrift's capital. To illustrate, under a 6 percent minimum capital requirement, a thrift will be permitted to invest up to 24 percent of assets in commercial real estate loans. If the thrift has 10 percent capital it will be able to invest up to 40 percent of assets in such loans.

ii. Flexibility of limitation.—After some experience with the new requirement, COSA will have the authority to modify the standard consistent with safe and sound business practices, but only if such additional loans would not present a significant risk to the safe and sound operation of the association and the increased lending authority is consistent with prudent operating practices. If the Chairman permits lending in excess of the 400 percent limitation, he then must monitor the condition (including the lending activities) of the association.

The Committee expects that the Chairman would exercise this discretion sparingly. Investments in nonresidential real estate in excess of the new limitation set forth in this section could result in an overconcentration of the asset portfolio in an area that entails a greater-than-normal level of risk. Accordingly, a precondition for the Chairman's exercise of this discretion should be that the savings association is capitalized well in excess of the standards that will be in place on June 1, 1991. Only in this way would the association be positioned to take on the additional risk represented by this loan concentration in the asset portfolio.

iii. Rationale for the change.—Although current law places some limits on the amount that a savings association could lend for nonresidential real estate purposes, these limitations were not sufficient to prevent the high concentration of speculative real estate loans that were made recently by savings and loan associations. During the 1980's many savings associations made loans to commercial real estate ventures in amounts that were inconsistent with sound policies regarding diversification of exposure. In addition to representing a disproportionate share of the loan portfolio, these loans were subject to the dramatic swings of highly volatile real estate markets. The combination of the speculative nature of these loans, the lack of expertise in making these types of loans, and the concentration of these loans in the asset portfolio was disastrous for many savings institutions.

For these reasons, the commercial real estate lending activities of many savings associations were decisive factors in their subsequent unprofitability or insolvency. There appears to be a high correlation between the percentage of an institution's assets dedicated to nonresidential real estate lending and the probability that such an institution will encounter financial difficulty. In numerous Bank Board press releases announcing savings and loan association failures, the financial difficulties leading to insolvency have been attributed to "over-concentration in commercial real estate," "unsafe and unsound commercial real estate lending" and "commercial construction and speculative land loans."

The revised restriction should ensure greater portfolio diversification—which is one of the keys to safety and soundness in the financial industry—and decrease the possibility that savings institutions (particularly weak institutions) will in the future rely so heavily on a sector of the market in which returns are highly variable.

iv. No divestiture of existing loans.—Federal thrifts will not be required to divest any existing commercial real estate loan as a result of the new standard.

b. Changes in powers of State-chartered thrifts

There are 3 basic issues:

(1) What activities may a federally insured State thrift institution engage in *directly*, and on what conditions?

(2) What activities may the thrift institution engage in through a *subsidiary*, and under what restrictions? To what extent may depositors' funds be used in place of private capital to support the activities of the subsidiary?

(3) What firewall restrictions should be imposed to prevent *affiliates* of thrift institutions from putting federal deposit insurance at risk?

i. Activities conducted by State thrifts directly.—Under current law, State thrifts may engage in activities directly (rather than through a subsidiary) that are broader than the activities that federal thrifts are permitted to engage in directly. The proposed legislation imposes safeguards on these broader activities to protect the deposit insurance fund.

(A) General two-part test.—Under the bill, a state thrift could engage directly in a different activity, or in a greater level of a particular activity, than a federal thrift may engage in directly, only if two conditions are met.

First, the state thrift must have enough capital to satisfy the fully phased-in capital standard that will apply to thrifts by 1993.

Second, the FDIC must determine that the different activity or different level of activity does not pose a significant risk of loss to the deposit insurance fund. The Committee intends that the standard for assessing the significance of the risk of an activity is whether the activity may result in *any* loss whatsoever to the insurance fund. The significance standard does not relate to the relative or absolute size of potential losses that the insurance fund may suffer as a result of permitting the thrift to engage in the activity. Rather, the test is whether it is likely that permitting the activity to be carried on by a state thrift may cause any loss to the fund.

(B) Exception for agency activities.—The two-part test does not apply to broader agency activities permitted for state thrifts, because these activities are not risky.

(C) Exception for different levels of activity.—In general, a state thrift does not need prior FDIC approval under the two-part test to engage in a greater level of a particular activity than is permitted for a federal thrift. The FDIC could still restrict the activity on its own, using the same test, and would be expected in any event to monitor these greater levels of activities by state thrifts. In addition, this exemption from prior approval would *not* apply to greater levels of activity in two areas permitted for federal thrifts: investments in service corporations greater than the 3 percent limit; and commercial real estate lending above the new standard of 400 percent of capital.

(D) Direct real estate/equity investments prohibited.—Notwithstanding the two-part test, a state thrift, like a federal thrift, is prohibited from engaging in direct real estate or equity investments. These activities are too risky to be funded by insured deposits. However, a thrift may engage in these activities through a separately capitalized subsidiary, as discussed in more detail below.

(E) Special rule for junk bonds.—As discussed below, junk bond investments are subject to a special rule, whether engaged in by a thrift directly or through a subsidiary.

(F) No divestment of existing loans or investments.—A state thrift that did not satisfy the two-part test would not have to divest any existing loans or investments.

ii. Restrictions on direct real estate and equity investments.—The causes of the crisis in the thrift industry are many and varied. A major contributing factor, however, is the ability of institutions chartered under state law to assume unacceptable risks through the exercise of new and nontraditional powers granted under state law. These laws—enacted without regard to the potential harm to the federal insurance fund—allowed state-chartered thrifts to make direct investments in real estate and in many other assets.

This authority was granted at a time when the thrift industry was in a seriously weakened condition. New investment powers were viewed as a way to permit thrift institutions to return to profitability by allowing equity ownership, which generally provides higher returns than lending, and diversification into other sectors where returns were viewed as better. Such authority did not, however, take account of the lack of expertise of financial institutions in managing, operating, or controlling businesses in other industries, or the incentive such authority created, especially for weak institutions, to gamble on speculative investments as a method of recovery.

The Committee considered at length the question of whether and to what extent the bill should require limitations on direct investments in real estate and equity by thrifts. Several witnesses at the Committee's hearing expressed concern about direct

investments. Mr. Selby, for example, said that ". . . some of the institutions, some of them that have been mentioned today in Texas, had very large direct investments that contributed to their problems." Similarly, FSLIC staff expressed the opinion that direct investments or risky acquisition, development and construction loans have contributed to almost all of the failures the FSLIC has had to resolve. Many direct investments masqueraded as loans by having very high loan to value ratios and equity participation clauses. For example, the FHLBB's press releases on the failure of Gibraltar Savings Association and Height Savings Association, both of Houston, blamed the failures on "direct investments in speculative ventures."

Thrifts that are insolvent or approaching failure can remain liquid and keep operating because deposit insurance protects their customers (at least their insured depositors) from loss. Such severely troubled institutions have incentives to use the funds they receive to gamble on recovery. Some firms hope to profit from investing in projects that promise high returns. In general, direct investments offer higher returns than lending.

But the higher returns promised by direct investment are not a free lunch. The market demands a price for such returns: high risk. Although some investors profit handsomely from direct investments, many others lose heavily. In good years, most projects succeed, but in bad years many projects fail. The real estate markets, particularly the commercial real estate markets, have followed this pattern in recent years. Returns have been highly variable across the country and over different time periods.

Because of the risk associated with direct investments, banks and thrifts generally have little or no ability to make equity investments. Federally chartered thrifts, for example, may not make direct investments in real estate. Some states, however, have allowed their thrifts to make equity investments, and many thrifts in those states have seized the opportunity to become heavily involved in such investment activities. According to testimony before the Committee, state-chartered thrifts have made direct investments in a wide range of non-traditional investments, including windmill farms, fast food franchises, toxic waste dumps, and stud farms. There can be no doubt that unsuccessful investments of this type have been a major cause of the losses in the thrift industry.

In addition to ordinary market risks of such investments, thrifts face additional risk because they lack expertise in businesses so far removed from their core lending business. Without such expertise, a thrift may inadvertently enter the market too late, invest in unsound or fraudulent projects, or make managerial errors.

The risks of direct equity investments to thrifts are amply demonstrated by available data. While the thrift industry as a whole was unprofitable last year, the condition of thrifts without direct investments (over three quarters of the industry) was better than those with direct investments. Those without direct investments had 4.4 percent GAAP capital and broke even. As the data in Table I show, profitability varied inversely with the percentage of assets directly invested.

TABLE I.—DIRECT INVESTMENTS [1] REAL ESTATE AND OTHER ASSETS

Percentage of assets	Number of thrifts	Percentage		GAAP capital	Return on assets
		Unprofitable	Insolvent		
Over 20	8	87.5	75.0	(69.7)	(31.3)
10 to 20	14	85.7	57.1	(11.3)	(5.6)
5 to 10	42	53.7	34.1	(.5)	(2.9)
0 to 5	629	40.9	23.4	2.2	(0.8)
0	2,331	2.5	11.1	4.4	0.0
All S&Ls	3,024	27.6	14.3	3.0	(3.2)

[1] Direct investment includes real estate held for development and nonresidential property.

Source: Staff analysis using Federal Home Loan Bank Board data.

Last fall, for example, the eight thrifts that had more than 20 percent of their assets in direct investments had a GAAP capital deficiency of 70 percent of total assets and were losing money at the extraordinary rate of 31 percent annually. The FHLBB's broader study of direct investments found a statistically significant correlation between the amount of direct investment activity at a failed thrift and the eventual cost of the failed thrift's resolution. Thus, in a fundamental sense, thrifts that make such investments are gambling, and gambling with Federally insured deposit.

(A) Prohibited within thrift.—Section 223 specifically prohibits a state-chartered thrift institution from acquiring or retaining any equity investment of a type or in any amount not permissible for a federal thrift. This prohibition is intended to include any type of equity investment including common stock and preferred stock (whether voting or non-voting), options, warrants, and interests in partnerships (whether general or limited).

(B) Transition rule.—A State thrift that currently engages directly in such equity investments must divest itself of the investment as quickly as the FDIC deems prudent, with an outside limit of five years from the date of enactment.

iii. Restrictions on corporate debt securities not of investment grade

(A) Current law for Federal thrifts.—A Federal thrift's investment in corporate debt securities that are not of investment grade (commonly referred to as "junk bonds") is limited to 11 percent of assets under current law. National banks, by contrast, are prohibited from investing in junk bonds.

(B) Capital requirement.—Under the proposal, a state thrift may not maintain more than 11 percent of its assets invested in junk bonds (whether directly or through a subsidiary) unless it has enough capital to satisfy the new, fully phased-in capital standards that will apply to thrifts as of 1993.

(C) Application to FDIC.—In addition, a State thrift must apply to the FDIC within 90 days of the date of enactment for permission to maintain more than 11 percent of its assets in junk bonds.

(D) FDIC determination.—Within 10 months of the date of enactment, the FDIC must determine whether an institution's investment in junk bonds exceeding 11 percent of assets constitutes a significant risk to the deposit insurance fund. It may make this determination on a case-by-case basis or by regulation. In making the determination, the FDIC should consider, among other relevant facts, the risks and returns on such investment, the institution's capital ratios, and its management expertise and past performance in such investments.

(E) FDIC restrictions.—If the FDIC determines that any part of a thrift's junk bond investment does pose a significant risk of loss to the fund, it may require that part to be sold, separately capitalized, transferred to a separately capitalized subsidiary, or otherwise restricted.

(F) Transition rule.—The bill would not require a thrift to divest or separately capitalize any part of its junk bond portfolio during the time in which the FDIC is making its determination. In addition, a transition rule applies to a thrift that must divest or take a similar action as a result of the FDIC's determination. Beginning a year after date of enactment, the thrift will have four years to comply, achieving 25 percent compliance each year.

iv. Separate capital rule for subsidiaries

(A) Separate capital rule.—If a thrift's subsidiary is engaged in activities that are not permissible for a national bank, both the Administration's proposal and the Committee's bill require that the subsidiary be separately capitalized (i.e., that the thrift's investment in the subsidiary not be counted as part of the thrift's own capital). This requires that impermissible activities be funded with private capital, rather than insured deposits. Examples of such impermissible activities are equity investments, insurance underwriting, and (depending on the FDIC's determination) junk bond investment.

(B) Rationale.—The separate capital requirement prevents double leveraging, a practice in which the same capital supports the operation of both the parent and the subsidiary.

By definition, capital requirements establish the minimum levels of capital at which the thrift's traditional deposit and loan activities can be safely and soundly conducted, with minimum risk to the deposit insurance fund. That capital, which is there to absorb losses at the thrift and protect the deposit insurance fund, should not be diverted to support risky nonbanking activities. Including the capital that is at risk in subsidiaries in the depository institution's consolidated capital amounts to a form of double counting. If the capital is lost in the subsidiary, it is not available to support losses in the thrift organization and the federal safety net is directly put at risk.

It is necessary for effective implementation of the capital standards that separate capital be required for any subsidiary engaged in activities not permitted for a national bank. The bill requires that the capital standards for thrifts should be no less stringent than those applicable to national banks. If the capital deduction were not required for nonconforming activities, a thrift institution would functionally operate with less capital than a bank of the same size because the thrift would have greater risk in its operations.

Separate capitalization is not required for agency activities, even if such activities are not permissible for a national bank. Consequently, the separate capitalization requirement chiefly affects those activities carried out as principal through service corporations and which are typically of higher risk than other activities. These activities would include securities activities, insurance underwriting and real estate development. All of these activities carry risk that is different from that of lending. Therefore, if the thrift chooses to engage in these activities, the thrift should have capital over and above what is necessary to support its traditional activities.

Experience has already demonstrated that thrifts can suffer major losses by engaging

in real estate development. Losses require an immediate deduction from capital. If a savings association decides to engage in one of these types of activities through a subsidiary, the subsidiary should have its own capital on which to operate and should not be permitted to leverage the capital of its parent insured institution. Without separate capital, the deposit insurance fund would once again be exposed to the risk of loss occasioned by the conduct of high-risk activities subsidiaries, whereby the subsidiaries may drain off capital that is needed to support the operations of the insured thrift institution itself.

(C) Change from administration proposal.—The Committee's bill is less stringent than the Administration's proposal because it makes exceptions for agency activities and junk bonds. Agency activities are excluded because they are not risky. Junk bonds are subject to a special rule, as discussed above. If (directly or through a subsidiary) a thrift's total junk bond investments do not exceed 11 percent of its assets, it need not separately capitalize the investments made through the subsidiary: if the FDIC approved, additional junk bond investments could be made without requiring separate capitalizations.

(D) Five-year transition rule.—A thrift will have five years from the date of enactment to comply with the separate capital rule. Until June 1990, the thrift may include in its capital 100 percent of its investment in the subsidiary; from July 1990 through June 1991, 90 percent; from July 1991 through June 1992, 75 percent; from July 1992 through June 1993, 60 percent; and from July 1993 through June 1994, 40 percent. The FDIC would have discretion to require a given thrift institution to achieve more rapid compliance with the separate capitalization requirement if, under the circumstances, slower compliance would be an unsafe and unsound practice.

c. Affiliate firewall restrictions

The Administration's bill proposed changes in the treatment of transactions between a thrift and its affiliates. The Committee agrees that changes in this area are desirable, but has chosen to adopt a more stringent approach.

i. Current law.—A thrift cannot make any investment in an affiliated company, and it generally cannot engage without the FSLIC's approval in transactions with affiliates that involve purchasing, selling, or leasing assets. The exception is for transactions with an affiliate that engages only in activities that are permissible for a bank holding company. In such cases, the transactions are permissible under the standard applicable to banks, which is discussed below.

ii. The Administration's proposal.—The Administration's bill would have applied the bank standard to *all* transactions between a thrift and its affiliates. This standard is set forth in Sections 23A and 23B of the Federal Reserve Act. This standard is, in some respects, more permissive than the standard that applies to thrifts under current law, in part because affiliates of banks can engage in a much narrower range of activities than thrift affiliates. (In general, a thrift can be affiliated with any company, no matter what its activities.)

iii. Sections 23A and 23B.—Section 23A of the Federal Reserve Act limits the amount that a bank can loan to an affiliate to 10 percent of capital; it limits the total of all transactions with affiliates to 20 percent of capital; and it requires that all extensions of credit to an affiliate be fully secured. Section 23B further requires that transactions between a bank and its affiliates be on terms at least as favorable to the bank as comparable transactions with third parties.

iv. New standard.—The bill applies the provisions of Sections 23A and 23B of the Federal Reserve Act to every savings association in the same manner and to the same extent as if that savings association were a member bank. The Chairman of the Office of Savings Association may impose more stringent requirements on affiliate lending by a savings association, but cannot exempt transactions from the provisions of Sections 23A and 23B.

The bill limits further the types of transactions permissible between a savings association and its affiliates by permitting only loans and extensions of credit to an affiliated company; it specifically prohibits any other type of investment or transaction, including purchases of assets, otherwise covered by or described in Sections 23A or 23B. In addition, section 11(a) permits loans or extensions of credit only to savings association affiliates that engage in activities that are permissible under 4(c)(8) of the Bank Holding Company Act. The definition of an affiliate in Section 23A is carried over into the bill.

Notwithstanding COSA's authority to prescribe more stringent standards, a savings association may purchase or participate in a loan originated by an existing mortgage banking affiliate to the same extent that a member bank could engage in such transactions consistent with 12 C.F.R. 250.250.

Sections 23A and 23B are two of the most important prudential limits in federal banking law. Transactions with affiliates present a vehicle for transferring the benefits of deposit insurance to nonbanking, nondepository affiliates, and for transferring greater risk to banks and savings associations affiliated with nonbanking companies. The basis for the restrictions in Sections 23A and 23B is the danger that will not act at arm's length when extending credit for benefit of its affiliates. Sections 23A and 23B are self-executing, and do not require the promulgation of regulations before they become fully effective.

Because of the crucial importance of the prudential limits established by Sections 23A and 23B, it is appropriate that authority for granting exemptions from these provisions be vested in a single agency responsible for uniform interpretation or these provisions, without the possibility for fragmentary and conflicting agency interpretations. Furthermore, this is not an area where there is room for any competition in laxity. Accordingly, the Federal Reserve Board has sole authority for issuing regulations or orders pursuant to these sections, including making determinations that certain transactions or relationships should be subject to Section 23A or 23B. In granting exemptions under these provisions, the Board may distinguish between banks and savings associations if the situation warrants.

4. Capital standards

a. In general

i. S. 413.—The bill requires that thrift capital standards be no less stringent than the capital standards that apply to national banks, but it also permits deviations that do not result in materially lower capital standards for thrifts than national banks. In addition, the bill allows the inclusion of goodwill as a component of capital, which is generally not permitted for national banks (see discussion below). The new capital standard is to be fully phased-in by June 1, 1991.

ii. Two capital standards apply.—The capital standard that will apply to national banks in 1991 is actually the greater of two standards. The first is the risk-adjusted standard, which requires banks that hold assets with greater credit risk to have more capital than banks with assets with lesser credit risk. The second is the leverage ratio, which is a flat percentage of capital to total assets.

iii. Leverage ratio as absolute minimum.—The leverage ratio that applies to thrifts will be no less stringent than the leverage ratio that applies to national banks; no deviations to lessen this standard will be permitted.

iv. Risk-adjusted ratio may deviate.—The risk-adjusted ratio that will apply to thrifts may deviate from the risk-adjusted standard that will apply to national banks, especially to take into account interest rate risk. But the thrift risk-adjusted standard, taken as a whole, may be no less stringent than the national bank risk-adjusted standard.

v. The 1991 deadline remains in place.—As in S. 413, the deadline for meeting the new thrift capital standard will be June 1, 1991. But additional capital restrictions apply both before and after that date.

vi. Pre-1991 capital restrictions.—Between now and 1991, thrifts that fail to meet their capital requirements have an incentive to grow and engage in risky activities in order to build capital quickly. To address these problems, the COSA will maintain discretion to limit any asset growth of such thrifts. In addition, such thrifts will be required to submit a new business plan for increasing capital that is acceptable to the thrift regulator.

vii. Pre-1991 business plan for increasing capital.—The business plan must describe the types of activities the thrift intends to engage in to increase capital, and it must provide that any asset growth will be fully supported by tangible capital under the capital standard in effect. A thrift that violates its business plan will be subject to the full range of enforcement measures provided by existing law and this bill.

viii. Post-1991 capital restrictions.—The Administration proposed to prohibit thrifts failing to meet the new capital standard in 1991 from all asset growth. This is too inflexible. The bill will permit very limited growth under very limited circumstances as described below.

ix. Post-1991 growth limited to interest credited.—COSA may *permit* asset growth by undercapitalized thrifts up to a maximum amount equal to interest credited on deposits. At current interest rates this translates to a maximum of 5 to 7 percent annual asset growth. But COSA may in its discretion limit or stop this growth altogether.

x. Post-1991 growth permitted only in less risky assets.—An undercapitalized thrift may only grow in traditional, less risky thrift assets. These consist of assets that qualify for the qualified thrift lender test and consumer loans.

xi. Post-1991 growth must be fully capitalized.—The limited growth permitted for an undercapitalized thrift must generally be supported by 6 percent tangible capital. However, if the capital standard in effect at the time would otherwise require less tangible capital, COSA may in its discretion apply that standard instead.

b. Goodwill

i. 25-year grandfather period.—Goodwill shall have a maximum amortization period

of 25 years for purposes of determining compliance with capital standards. The bill makes no distinction between so-called "supervisory" goodwill and any other form of goodwill.

ii. Fully capitalizes asset growth.—An institution that meets its capital standards only by counting goodwill must fully support any asset growth with tangible capital. This tangible capital may be required to be as much as 6 percent of assets, but may never be less than the minimum level required under the new capital standard.

iii. Goodwill in prospective acquisitions.—Any goodwill, whether it arises from an assisted or unassisted transaction, that is created in a merger or acquisition consummated after April 12, 1989, shall not be counted for purposes of determining compliance with any capital standard promulgated or enforced by any Federal banking regulatory agency. The bill makes a narrow exception in the case of a thrift merger for which a completed application was filed and received by the FHLBB on or before March 12, 1989, if such merger or acquisition is later consummated in accordance with all the material terms and conditions of the original application. This narrow exception gives the new COSA limited discretion to include goodwill in determining capital adequacy.

c. Early intervention rule

The early intervention provision, Section 913 of the FIRRE Act, provides the FDIC with new procedures for suspending deposit insurance for any institution which has no tangible capital. These expedited procedures will allow the FDIC to suspend deposit insurance, without a prior administrative hearing, but subject to judicial review under the arbitrary or capricious standard.

When determining the tangible capital of savings associations, the FDIC is to include goodwill, but only to the extent that such goodwill is considered a component of the association's capital under section 5(t) of the Home Owners' Loan Act. Any association which would have no tangible capital, but for the inclusion of this goodwill, will be considered a special supervisory association.

While the FDIC may not suspend insurance based on the lack of tangible capital for a special supervisory association, the agency is given enhanced supervisory authority over the institution. First, it is the Committee's intent that the association enter into a capital improvement plan with both COSA and the FDIC. Further, the FDIC is authorized to suspend deposit insurance for such an association, utilizing the same expedited procedures as would apply to other insured financial institutions, if it determines that (1) the association's capital level has suffered a material decline after the date of enactment of the FIRRE Act; (2) the association, or its directors or officers, is engaging in an unsafe or unsound practice; (3) the association is in an unsafe or unsound condition; (4) the association, or its officers or directors, has violated any applicable law, rule, regulation, or order, or any condition imposed in writing by any Federal banking agency, or any written agreement with any Federal banking agency, or that the association has failed to enter into a capital improvement plan which is acceptable to the FDIC. Further, in light of the risk posed to the insurance fund by these special supervisory associations, the FDIC is directed to conduct a thorough examination of these institutions within 3 months of the date of enactment of the FIRRE Act, and on a quarterly basis thereafter.

It is important to note that these new procedures for suspension of insurance are in no way intended to restrict or limit the FDIC's current authority to terminate deposit insurance under Section 8(a) of the Federal Deposit Insurance Act. Thus this provision in no way affects the FDIC's authority under Section 8(a) to terminate the insurance of an institution which *has* tangible capital.

d. Accounting practices

The bill requires the federal banking agencies to establish uniform accounting standards for federally insured financial institutions. This is not an invitation to lower the overall standards to the lowest common denominator. The Committee is aware that in some instances (for example sale of assets with recourse) application to thrifts of Generally Accepted Accounting Principles for banks would have harsh results. In other instances (for example, discounting the value of general loan loss reserves) application of Generally Accepted Accounting Principles for thrifts would have harsh results on banks. The Committee expects the Federal banking agencies to develop uniform accounting standards that accurately measure the condition of the institution so that capital standards are not rendered meaningless. In their reports to Congress on capital standards, the federal banking agencies shall explain the deviations between their respective capital standards. For example, the Committee understands that one Federal banking regulatory agency has proposed risked-based capital requirements that depart from the other Federal banking regulatory agencies' treatment of mortgage servicing rights in computing core capital.

5. Resolution Trust Corporation

a. Introduction

The overall purpose of the RTC is to dispose of failed thrifts and assets of failed thrifts and to assist the FDIC in resolving future thrift failures at minimal cost. The emergency nature of this legislation requires that Congress give the Executive Branch latitude to fashion a system in which the Administration has confidence. If time had permitted, however, the Committee would have expanded its hearings to include discussion of alternative means to accomplish the Administration's goals.

b. Oversight of the RTC

i. Composition of Oversight Board.—The RTC will be governed by an Oversight Board composed of a mixture of private and public officials. The public officials on the Oversight Board are the Attorney General, the Chairman of the Federal Reserve, and the Secretary of the Treasury. The President shall also appoint two private persons to the board who have experience equivalent to that of a chief executive officer of a major corporation, including some experience in real estate matters. The Committee believes that such private persons will bring essential real estate and management expertise to the Oversight Board. In addition, the Committee fears that significant responsibilities of the public sector members of the Oversight Board will likely leave them limited time to monitor the RTCs activities in depth.

ii. Ethical safeguards.—Under the proposed legislation, the RTC is not an agency of the federal government. Given the amount of public funding provided to the RTC, the Committee is concerned by the potential for the very types of fraud and abuse that caused problems at many failed thrifts. Therefore, the bill subjects agents and employees of the RTC to ethical standards at least as high as those that apply to FDIC employees. Further, the bill makes agents and employees of the RTC (such as attorneys, accountants, appraisers, brokers, and property managers) accountable for malfeasance and subject to the same criminal penalties as FDIC employees.

iii. Reports to Congress.—Under the proposed legislation, the RTC will make pivotal decisions regarding allocations of federal funds to resolve large numbers of savings and loan insolvencies. Accordingly, the bill requires the RTC to report in detail on its actual and projected expenditures, commitments and guarantees to acquiring institutions, and future operating plans. This reporting requirement is similar to requirements imposed on the FDIC and requires financial information similar to that Congress requires of government corporations under 31 U.S.C. Section 9103(b)(2). The RTC's report shall set forth the results of an audit of the Corporation's financial statements performed by the Comptroller General or, at the Comptroller General's election, by an independent certified public accountant. Also, the RTC is required to report semiannually on its asset disposition efforts and expenses.

c. Orderly sales of assets

i. Goals.—The RTC's primary objectives will be: (1) to obtain the maximum net present value from the assets under its control; (2) minimize disruption to local economies; and (3) maintain an adequate level of capital. Obtaining maximum net present value from assets held by the RTC is essential to control the ultimate costs of the asset disposal program to the taxpayers. But the Committee expects the RTC to maximize net present value without damaging local markets by dumping large amounts of assets on the market all at once. For example, the Committee believes that the Department of Housing and Urban Development's auctions of large amounts of real property in Denver have depressed the entire Denver residential real estate market. The Committee believes such practices are not the best way to maximize value. The Committee believes maximum value may sometimes be obtained for certain properties by sales to public entities. For example, sales of certain structures to public housing agencies, on land with special environmental value to parks or similar public entities. Therefore, the bill requires that the RTC take certain business planning steps to provide for orderly disposal of assets.

ii. Distressed areas.—The bill further requires the RTC to take certain additional steps when selling land it owns in distressed areas. The Committee wishes to note, however, that it does not understand its market valuation requirement as a mandate to obtain an appraisal in all cases. Where other valuation methods are appropriate, an inflexible appraisal requirement could create intolerable delays. Although the Committee's bill gives the RTC maximum flexibility in disposing of assets, the Committee does not expect the RTC to structure transactions that meet the letter of the law but violate its purpose.

iii. Procedures for soliciting business.—The bill requires the RTC to prescribe procedures for the solicitation and selection of offers to acquire troubled institutions or assets held by the RTC, subject to review and approval by the RTC's Oversight

Board, and to document all decisions made during the solicitation and selection process. In the past, the process of soliciting and selecting offers to acquire troubled thrifts has been loosely structured and inadequately documented. In 1988, the Federal Home Loan Bank Board approved many assisted acquisitions using a bidding process that was administered inconsistently, governed by few formal controls, and insufficiently documented. As a result, the GAO and others have questioned whether the methods the Board used in arranging these acquisitions minimized costs to the government and served the public's best interests. Similar concerns have been raised about the asset disposition process.

The proposed legislation requires the RTC to develop procedures for the solicitation and selection process. The Corporation will have flexibility to structure its bidding procedures to accommodate unique circumstances presented by particular thrift and asset dispositions, within the bounds of existing law. To the greatest extent practicable, however, the Corporation's procedures must provide for fair competition and consistent treatment of qualified bidders, and must minimize costs to the Corporation and the federal government. In this context, costs to the federal government include not only any direct costs, but also indirect costs such as federal tax revenues foregone.

The Corporation is required to document the basis for its solicitation and selection decisions and to maintain this and any other relevant documentation in its offices. The central purpose of these requirements is to permit the Government to evaluate the Corporation's disposition activities and decisions.

d. Regional advisory boards

The tasks facing the RTC are formidable. The Committee believes that any expertise that can be brought to bear on this problem should be utilized. Because real estate markets are fundamentally local in nature, it is important to consult with talented, responsible people who understand local market nuances. This bill establishes regional advisory boards composed of such persons to advise the RTC.

e. Structural issues

i. Custodian of assets.—The RTC shall serve as legal custodian (conservator or receiver) of thrifts that fail after January 1, 1989. The RTC will assume responsibilities for such failed thrifts similar in scope to the responsibilities formerly exercised by the FSLIC when a thrift failed. Instead of employing a large internal staff to perform those custodial functions, however, the RTC will contract for management services with the FDIC. The proposed legislation also gives the RTC flexibility to contract with other entities. The Committee intends the RTC and the FDIC to use private persons or entities to the extent that such entities can further the RTC's general asset disposition objectives if, in the sole discretion of the RTC or the FDIC, such private persons or entities are available, practicable and efficient. For example, it may be prudent for the RTC to use asset management companies or real estate brokerages in order to obtain the maximum net present value from certain real estate assets. The Committee does not intend this provision to create a private right of action for frustrated private parties, however, but only to set forth a standard by which actions of the RTC and the FDIC may be reviewed by Congress.

ii. Assisted acquisitions of failed thrifts.—The RTC also will have responsibility for selling or otherwise resolving troubled thrifts under its jurisdiction. In performing this function, the proposed legislation authorizes the RTC to exercise the same powers that the FDIC may exercise. The Committee intends that the RTC endeavor to obtain a share of future potential gain for the government in assisted transactions in the form of warrants, profit sharing arrangements, participations in asset recoveries, or the like. The Committee recognizes that the RTC will need to balance this objective against its mandate to resolve problems at the lowest possible cost to the government. Of course, if material cost savings are available, the RTC may enter into transactions without warrants or similar arrangements.

iii. Changes from Administration proposal.—The Committee altered the Administration's proposal for the RTC only in certain technical and clarifying respects. For example, the Committee expanded the corporate powers of the RTC to facilitate the Corporation's performance of its asset disposition function and add flexibility to the manner in which the Corporation can dispose of assets. The Committee's bill clarifies that, when the Corporation is exercising the fiduciary powers of the FDIC as conservator or receiver of an insured institution, it will contract and otherwise act as the FDIC would be permitted to act under the Federal Deposit Insurance Act and regulations promulgated pursuant to that Act.

iv. Relationship between FDIC and RTC.—Because of the emergency nature of this legislation, the Committee did not alter the proposed statutory language that establishes the basic structure of the RTC and the functions it will be permitted to perform. The Committee notes, however, that there are potential structural issues which the Administration did not clarify. The Committee notes that the RTC could perform its principal intended functions as efficiently if the FDIC continued to serve as the actual legal custodian of institutions in conservatorship or receivership. The Committee is not entirely clear how the relationship between the RTC and its primary manager, the FDIC, will evolve. The Committee wishes to emphasize, however, its expectation that members of the Oversight Board and the FDIC's board of directors, and their respective staffs, will cooperate closely and fully with one another, and endeavor to avoid redundant decision-making.

7. Equalization of premiums and uncertainty about future rates

a. Equalization of premiums

i. Fixed insurance premiums through 1994.—Insurance premiums for banks and thrifts will be fixed through 1994 according to the following schedule (except that the FDIC maintains discretion to reduce the premiums):

Year	Basis points	
	Banks	Thrifts
1990	12	20.8
1991	15	23
1992	15	23
1993	15	23
1994	15	18

ii. Maximum premium of 30 basis points.—As under the Administration's proposal, the FDIC will have new authority to raise premiums. However, unlike the Administration's proposal this new authority may not be exercised at any time before 1995. In addition, the assessment rate will never exceed 30 basis points (rather than 35 basis points under the Administration's proposal).

iii. Equalization of bank and thrift premiums in 1998.—Thrift premiums will decline to 15 basis points on January 1, 1998 to coincide with the same 15 basis point premium that begins to apply to banks in 1991, unless the FDIC exercises its authority to raise premiums.

iv. Maximum annual increase of 5 basis points.—The FDIC's authority to raise insurance premiums by up to 50 percent in one year as proposed by the Administration is reduced to a maximum annual increase of only 5 basis points.

v. Premiums based on reserves.—The FDIC is permitted to raise premiums based on reserves falling below 1.2 percent only after both the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF) have become fully capitalized at a reserve ratio of 1.2 percent. This would prevent the FDIC from immediately increasing premiums based on the fact that the reserve ratios of both the BIF and SAIF funds are currently under 1.2 percent.

8. Contributions to the Resolution Funding Corporation by Federal Home Loan Banks

The Federal Home Loan Banks will provide a portion of the funds needed by Resolution Funding Corporation (REFCORP). These banks will contribute a lump sum of approximately $1.8 billion to be collected over the next two and one-half to three years plus $300 million per year, starting with this calendar year, until REFCORP's bonds are retired. The $1.8 billion equals the retained earnings of the banks as of year-end 1988, less amounts previously used or expected to be used for investments in the Financing Corporation.

The $300 million per year is roughly equal to 20 percent of current annual earnings. Because 20 percent of earnings would normally be added to legal reserves, the aggregate amounts available to pay dividends may not be greatly affected by the bill. However, the loss of their accumulated retained earnings will tend to lower the banks' annual investment earnings. In the event that the industry contracts over the next few years, income from advances could be reduced, making $300 million potentially a somewhat larger portion of earnings.

Dividends at some individual Federal Home Loan Banks also may be reduced because the distribution of both stock purchases and interest payments places a heavier burden, relative to resources, on some banks than on others. This is, at least to some extent, acceptable, as a distribution formula based solely on ability-to-pay might unfairly penalize banks that have been especially successful or that followed more cautious dividend policies. However, other formulas inevitably introduce some element of windfall gains and losses for different district banks.

a. Capital stock

The $1.8 billion plus the annual payments over the first three years, for a total of $2.7 billion, will be used to purchase all of the non-voting capital stock of REFCORP.

The distribution of these funds among the Federal Home Loan Bank will be determined according to a formula devised collectively by the Federal Home Loan Banks which combines these funds with approximately $800 million of investments in the Financing Corporation. There is an explicit percentage distribution of the first $1 bil-

lion. The remainder, roughly $2.5 billion, will be distributed according to each district's percentage of assets held by FSLIC- or SAIF-insured institutions nationwide as of the most recent year-end.

Because the total amount of stock to be purchased roughly equals all of the current and prospective retained earnings and the distribution is based on other criteria, some banks will have more than adequate funds and others less. The banks with an excess will purchase stock on behalf of others to the extent needed. Those with insufficient funds will have to set aside 20 percent of their earnings to repurchase these shares. The price of the shares will rise over time, starting 12 months after their initial purchase, at the rate of the average system-wide cost of funds.

This procedure represents a change from the Administration's bill which required banks that could not get their full allotment to use 75 percent of earnings for repurchasing stock bought by others. The Committee bill should reduce the need for sharp fluctuations and individual payments by stretching out the repurchases over a longer period.

b. Interest payments

The distribution of the annual interest payments among the Federal Home Loan Banks is based on a different formula. The $300 million annual payments for interest (starting in 1992 unless investments in the Funding Corporation and the Financing Corporation are less than $300 million in a previous year) are apportioned among the banks according to their respective average level of advances outstanding during the previous year. This formula more closely approximates an ability-to-pay measure than that in the Administration bill. Thus, it reduces the discrepancies among banks in the effects of the legislation on dividend yields that the banks will be able to offer.

c. Repeal of legal reserves requirement

Legal reserves of 20 percent of earnings will continue to be set aside through 1991. Those reserves will be used to help purchase the $2.7 capital stock. After 1991, there is no important need for such reserves, and the building of such reserves combined with the burden of the $300 million annual payments places an unnecessary constraint on dividends paid to members. Accordingly, the requirement is repealed starting in 1992.

9. Limits on loans to one borrower

Current law permits a thrift to make a loan to one borrower that is equal to 100 percent of the thrift's capital. The Committee feels this limit is too risky.

a. Application of national bank standards

A national bank's loans to one borrower are limited to 15 percent of capital. This general limit will apply to thrifts.

b. Accommodation for residential mortgage loans

A thrift may make a residential mortgage loan to one borrower of up to $500,000 even if this amount would exceed the general limitation.

c. Facilitation of the sale of foreclosed real estate

A thrift may lend up to 50 percent of capital to facilitate the sale of real estate owned as the result of foreclosure.

10. Loan to value ratios

Federal law does not limit the specific amount that banks and thrifts can lend for real estate in relation to the value of the collateral. In some states, thrifts were allowed to gamble and make loans to developers equal to 100 percent of the appraisal value of the land. The Committee's bill places general limits on these loan-to-value ratios for both banks and thrifts. Loan-to-value ratios are an important part of the bill's safety and soundness features. The FHLBB has studied the issue of real estate loans with collateral values equal or close to the amount of the loan and determined that the risk characteristics of such loans are essentially the same as direct investments in real estate. The bill limits the loan to value ratio depending on risk characteristics of the following categories of land.

a. Loans secured by residential property

In general, the loan-to-value ratio for a residential mortgage will be 95 percent of the value of the residence. A higher loan-to-value ratio is permitted for mortgages under federal guarantee programs such as VA and FHA mortgages.

b. Loans secured by developed commercial real estate

The loan-to-value ratio for loans secured by real estate with a completed building will be 80 percent.

c. Loans secured by raw land

The loan-to-value ratio for loans secured by real estate without a completed building will be 65 percent. This is not meant to affect loans to active farming operations secured by agricultural land.

d. Flexibility of limitations

Bank and thrift regulators will have the authority to modify these standards consistent with safe and sound business practices.

11. Real estate appraisals

Many loans and other transactions entered into by federally insured financial institutions are collateralized by real estate. While repayment ability forms the primary determinant of creditworthiness, the value of collateral and a reasonable ratio of loan to collateral value provide important protections against loss. Thus, the quality of real estate appraisals can significantly affect the soundness of insured institutions and, ultimately, the Federal deposit insurance system.

Evidence presented to the Committee indicates that poor quality and, in some cases, fraudulent appraisals have been associated with enormous losses at failed thrifts and contributed measurably to the thrift crisis. The Committee also notes that the House Government Operations Committee, after exhaustive hearings on the subject, concluded in a special report that appraisal abuse was "widespread" and "pervasive" and to blame for billions of dollars in losses to lenders.

Existing statutes and regulations do not require insured financial institutions to use standardized appraisal systems and certified appraisers. The proposed bill seeks to rectify this deficiency. The committee believes that appraisals of real estate collateral should be performed independently, competently, and in accordance with professional standards. Likewise, lending institutions should have policies, procedures, and controls to ensure that the appraisals forming the bases of their lending decisions do, in fact, merit reliance.

The Committee, in addressing the problem, decided to build upon work already being done by responsible elements of appraisal industry. The non-profit Appraisal Foundation, established in 1987, represents the major elements of the U.S. appraisal industry. Under its auspices, an independent Appraisal Standards Board has promulgated and promoted industry-wide standards for good appraisals. Similarly, under its auspices, an independent Qualification Board has recommended minimum requirements for education, experience, continuing education, a code of ethics and tests for use in certifying appraisers.

The bill requires each federal financial institution's regulatory agency to establish standards for the performance of real estate appraisals and for utilization of State certified and licensed appraisers on federally related transactions. The rules would, *at a minimum*, have to meet generally accepted real estate appraisal and certification standards as evidenced by those promulgated by the Appraisal Foundation. Each regulatory agency could exceed the standards if "additional standards are required in order to properly carry out its statutory responsibilities."

In order to monitor the Federal appraisal standards and the State certification and licensing standards, the title creates an Appraisal Subcommittee within the existing Federal Financial Institutions Examination Council. In addition to its monitoring functions, the Appraisal Subcommittee will maintain a national registry of State certified and licensed appraisers and submit annual reports to the Congress on how the law is being enforced.

The Committee believes this structure will assure not only quality appraisal standards and qualified appraisers, but create appropriate enforcement and monitoring mechanisms to assure compliance with the standards.

12. Credit unions

a. Current law

Under current law enacted in 1984, credit unions, unlike other federally insured institutions, do not pay insurance premiums to finance their deposit insurance fund, the National Credit Union Share Insurance Fund (NCUSIF). Rather, each federally insured credit union maintains a deposit equal to one percent of its insured shares with the NCUSIF. Credit unions are permitted to count this deposit as part of their capital.

b. Administration proposal rejected

The Administration's bill proposed to have credit unions pay an annual premium to finance their insurance fund and to write off their existing deposits with the NCUSIF over an eight year period. The Committee is not certain whether such a measure is required at this time. Instead, the Committee's bill includes the credit union capitalization issue among other deposit insurance issues to be studied over the next 18 months by the Secretary of the Treasury and banking regulators. The study will also consider whether administration of the credit union insurance fund should be separated from the National Credit Union Administration (NCUA), which regulates and promotes credit unions. The Committee's bill also includes the NCUA Chairman among the regulators designated to conduct the study of various deposit insurance issues.

c. Comprehensive studies required

As part of the study of deposit insurance required under the bill, the Treasury Department will be required to examine the credit unions' deposit insurance system and administration. The Chairman of the National Credit Union Administration will be included in the group of regulators conducting the study.

In addition, the Committee's bill directs the GAO to examine the financial condition of credit unions and their insurance fund. The GAO's report should also include information relating to how the "common bond" requirement that applies to credit unions has been implemented. The Committee's bill requires the GAO to complete this study within 18 months, to coincide with the deadline for the Treasury Department study.

d. Employee salary cap lifted

The Administration's bill proposed to lift the caps on salaries that may be paid to employees of the Bank Board System and the Comptroller of the Currency but not to lift the salary caps for employees of the NCUA. Thus, the bill would have left NCUA employees as the only financial institution regulators subject to federal salary caps. The Committee believes this arrangement would eventually create incentives for the most capable NCUA employees to seek employment with other regulators. The Committee's bill, therefore, provides the NCUA Board with discretionary authority to maintain a pay scale for certain of its employees comparable to that in effect at the other Federal bank regulatory agencies.

13. Federal Home Loan Mortgage Corporation

The proposed bill provides the Federal Home Loan Mortgage Corporation (FHLMC) with the market-oriented corporate structure that Congress established for the Federal National Mortgage Association (FNMA). This change is made necessary by the dissolution of the Federal Home Loan Bank Board, which has served a dual role as the FHLMC Board of Directors. The title creates a new, 18-member Board of Directors for FHLMC, with 5 members appointed annually by the President of the United States and the remainder elected by the voting common stockholders. Each outstanding share of FHLMC senior preferred stock will be converted to a share of voting common stock.

Other provisions of the title are intended to provide competitive parity between FHLMC and FNMA and to ensure that FHLMC's ongoing programs and activities will continue without interruption. The title grants the Secretary of HUD general regulatory authority over FHLMC that is identical, on all relevant matters, to its regulatory power over FNMA, including certain specific approval authority regarding FHLMC's mortgage programs and activities. These regulatory powers are granted to the Secretary for the purpose of assuring that FHLMC carries out its statutory responsibility for creating and maintaining secondary markets in conventional mortgages.

It is the intent of the Committee that the regulatory powers of the Secretary will not extend to FHLMC's internal affairs, such as personnel, salary, and other usual corporate matters, except where the exercise of such powers is necessary to protect the financial interests of the Federal Government or as otherwise necessary to assure that the purposes of the Federal Home Loan Mortgage Corporation Act are carried out. The title grants the Secretary of the Treasury certain approval authorities over FHLMC's issuance of unsecured debt obligations and mortgage-related securities. Treasury already possesses such powers over FNMA. The committee intends that the Treasury shall use these powers, as it does with FNMA, solely to ensure that FHLMC's financing activities are conducted in a way that promotes FHLMC's statutory purposes in appropriate coordination with financing activities of the Treasury and other government-sponsored enterprises. The title provides FHLMC with a line of credit that is identical, in amount and substance, with that of FNMA.

14. Enforcement

a. Administration proposal

The Administration bill provided additional authority for bank and thrift regulators to order restitution or indemnification, assess a civil money penalty, order affirmative action, or take action if an institution's books or records are in disorder. It also provided that an individual removed from an institution may not work at any other insured depository institution without regulatory approval. Finally, it increased civil penalties to $25,000 per day, or, if the violation is reckless, $1 million per day. The Committee's bill generally follows the Administration's proposal, with the following changes.

b. Standard of review for certain orders

The Committee's bill provides that suspension orders and temporary orders are to be reviewed under the arbitrary and capricious standard.

c. Definition of final order

Current law defines a "cease-and-desist order which has become final" and "order which has become final" as an order which was issued with the consent of the parties involved, or an order for which there is no further administrative review. The Committee's bill amends this definition so that either a cease-and-desist or other order issued by a Federal banking agency will be considered "final" when it is issued with the consent of the parties, or when there is no further administrative review. This will permit timely enforcement of agency decisions, while preserving the rights of all parties to obtain judicial review.

d. Independent contractors, appraisers, attorneys and accountants

The Committee's bill specifies that an independent contractor, including an appraiser, attorney or accountant may be considered an institution-related party, and thus subject to enforcement actions, if he or she knowingly or recklessly participates in a wrongful action that caused, or is likely to cause significant loss to a financial institution. An independent contractor, would also be considered an institution-related party if they are otherwise participating in the affairs of a financial institution or subsidiary thereof. Thus, for example, an attorney, accountant or appraiser who is on the board of a financial institution is to be considered an institution-related party, whether or not he or she engaged in any wrongful action.

e. Mitigating circumstances

The proposed bill provides that in considering imposition of a civil money penalty, the agency will consider the appropriateness of the penalty with respect to the size of financial resources and good faith of the institution or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

f. Department of Justice appropriations

The bill provides the Department of Justice with an authorization of appropriations of $50 million annually for fiscal years 1989 through 1991, to investigate and prosecute financial institution crimes. It is specifically intended that these additional appropriations be treated as additional funds, and not be used as replacement resources for funds already allocated from other functions for the investigations and prosecutions of financial institutions crimes.

g. Reimbursement, restitution and indemnification

In the case of *Larimore* v. *Conover*, 789 F.2d 1244 (7th Cir. 1986), the Court of Appeals held that section 8(b) of the Federal Deposit Insurance Act did not authorize the Comptroller to obtain reimbursement in an administrative proceeding from the director of a national bank who participated in a violation of the statutory lending limits.

The *Larimore* decision has resulted in some confusion about the extent of the Comptroller's authority to order restitution or reimbursement or other forms of indemnification. This bill clarifies the situation by specifically authorizing the Comptroller as well as the other Federal banking agencies to order a party to pay restitution, reimbursement, or indemnification and would thus allow the recovery of losses resulting from violation of laws or other improper conduct. It is the Committee's intent, however, that this power be used only in appropriate cases, for example, where the institution-related party has unjustly enriched himself at the institution's expense or where the institution-related party has acted in reckless disregard of the banking laws or regulation. It is not intended that this power will be used in cases where the institution-related party engaged in less serious violations or less serious conduct.

15. Other issues

a. Brokered deposits

A common trait among currently weak and insolvent thrifts is a history of rapid growth made possible, in many cases, by "brokered" funds. Former Federal Reserve Board Chairman Paul Volcker, among others, testified to the Committee that brokered deposits "often fueled the growth of institutions taking excessive risks" and questioned whether brokered deposits should be permitted at all. On the other hand, some witnesses, including present Federal Reserve Board Chairman Alan Greenspan, testified that brokered deposits can, if used prudently, enhance institutional liquidity, facilitate the efficient flow of funds, and allow institutions to better manage their asset and liability maturity structure.

The bill reported by the Committee gives the RTC discretionary authority to limit the use of brokered deposits by institutions within its jurisdiction. In addition, the bill requires a study of the deposit insurance system to include potential limitations on brokered deposits, among other things.

The Committee is concerned by the ready availability of brokered funds, obtained through the payment of above-market rates, to support risky and speculative asset investment by weak and insolvent institutions. Some Committee members advocated a different, broader, focus than that taken by the proposed bill, and suggested adoption of a provision restricting the acceptance of brokered deposits by insured institutions which did not meet required capital levels. Ultimately, however, the Committee chose to forego more sweeping legislative restrictions on the use of brokered deposits at this time.

The Committee's decision to forego legislative restrictions on brokered deposits was influenced by the FDIC's issuance on March 21, 1989, of a new proposed rule requiring prior notice by insured institutions planning

rapid growth. The FDIC notice proposal would cover not only growth based on brokered deposits, but also growth based on repurchase agreements and money deals. The Committee supports such rulemaking and specifically endorses the legal authority relied upon by the FDIC for its proposed rule. The Committee suggests, however, that the FDIC should carefully consider the appropriateness of the growth level proposed under the rule and ensure that adequate resources are provided for an effective and thorough review process. In addition, the Committee encourages the FDIC to amend its proposed rule to provide for compilation of information regarding the brokered deposit market, including the names of deposit brokers and institutions that receive brokered funds, and the amounts of fully insured brokered funds deposited at those institutions. The Committee believes such information would facilitate analysis of the extent and significance of the national market for fully insured brokered deposits.

b. Disclosure requirement

Banks and thrifts currently prepare and submit quarterly condition reports, but these reports contain insufficient information for regulators to assess accurately the risks that an institution is undertaking. Moreover, it is not now possible to distinguish income that a bank or thrift receives in the regular course of its business from that derived from assistance payments. Lack of information makes it more difficult for regulators to supervise the condition of institutions under their care.

While the FDIC releases virtually all of the information it collects, the FHLBB makes only limited portions of condition reports submitted to it available for public disclosure. Inadequate disclosure prevents uninsured customers from protecting their financial interests and isolates institutions from market discipline.

This legislation includes a provision that would require savings associations to submit information concerning their interest rate and credit risks, the assistance they receive, the identities of their subsidiaries and affiliates, and their equity investments in addition to other data the COSA may require. The bill further establishes a presumption that condition data will be disclosed to the public and accessible to Congress. Such disclosure should facilitate the democratic process and enhance the safety and soundness of the nation's thrifts.

c. Annual audit requirement

Current regulations require thrifts to be audited annually by auditors and in a manner satisfactory to federal regulators. Unfortunately, the audit requirement has not achieved its ostensible purpose. A recent GAO report concluded that, in six of eleven cases studied, "CPAs did not adequately audit and/or report the S&Ls financial or internal control problems in accordance with professional standards."

This failure of the accounting profession deprives federal regulators of a potentially invaluable source of critical information concerning the soundness of individual thrifts. The proposed legislation seeks to reverse this situation by supplementing the current regulatory requirement that audits satisfy federal regulators with a new power to postpone payment for the audit pending clarification or additional work by the auditor in instances where an audit report clearly falls short of regulatory standards. To ensure that auditors are not needlessly harmed by inadvertence or neglect, the bill permits a thrift to go ahead and pay its auditor if the regulator does not request any clarification or additional work within thirty days after the audit is filed with the regulator.

d. Consumer provisions and taxpayer protections

The proposed bill contains several provisions intended to protect and promote consumer interests in the home mortgage credit system.

i. Consumer directors of Federal Home Loan Banks.—As described above, the proposed legislation requires that, in making appointments to the boards of directors of the Federal Home Loan Banks, the FHLBA reserve two positions at each bank for representatives of consumer and moderate income interests. The Committee believes that existing public interest directors on the Banks' boards have not adequately represented consumer and moderate income interests. The Committee expects this legislation to rectify that deficiency.

ii. Asset purchases by housing authorities and non-profits.—The bill enables state housing finance authorities and non-profit entities to purchase residential housing assets from the RTC. The purchasers under this title are required to invest net income attributable to the ownership of such assets in the financing, refinancing, or rehabilitation of low and moderate income housing.

The Committee intends that governmental entities as well as non-profits be able to purchase residential assets, and notes the contributions made by neighborhood-based and national non-profit entities to providing assisted housing services.

As with sales of commercial real estate assets, the Committtee intends that the primary purpose of the sale of residential assets be the realization of maximum proceeds from such sales to offset the contributions made by the American taxpayer to insure savings deposits. In the view of the Committee, this is not consistent with enabling state housing finance agencies and non-profit entities to pursue opportunities presented by such sales to increase the availability of affordable housing to Americans of low an moderate income.

iii. Public interest uses of RTC assets.—Some of RTC's assets may be so decreased in value that no reasonable recovery is anticipated. The proposed legislation authorizes the RTC to allow assets to be used for public purposes, such as homeless shelters, child care centers, or other needs of moderate- and low-income communities. Such assets could be leased, sold, given away, or otherwise transferred for these public purposes.

iv. Report on loan discrimination.—Section 1407 of the proposed legislation requires all federal regulators of institutions which make mortgage loans to report to Congress on currently available statistical evidence of discriminatory mortgage lending practices. The regulators are required to include legislative recommendations in their reports. Such recommendations might inlcude increased disclosure requirements, the use of testers, or any other means which could effectively and efficiently assure nondiscrimination in lending practices.

v. Affirmative action.—The proposed legislation specifically provides that Executive Order 11478, which prohibits discrimination and requires affirmative action in employment, applies to the agencies and federally regulated corporations covered in the proposed legislation.

The bill also requires the executive heads of the agencies or federally regulated corporations covered to establish programs that encourage the participation of minority and women owned businesses in their procurement activities. These agencies and corporations are required to use the guidelines of the Small Business Administration in establishing the certification requirements for minority or female owned businesses. The Committee recognizes that procurement by federally related agencies and corporations must be consistent with prudent business practices. Procurement is defined as buying, purchasing and contracting for goods and services required to carry out regular business activities.

vi. RTC conflict of interest protections.—All employees and independent contractors of RTC shall be required to meet conflict of interest rules and other ethical standards which are at least as stringent as those applicable to FDIC employees.

vii. GAO audits.—To ensure adequate Congressional oversight over all aspects of this legislation and to safeguard the expenditures of taxpayer funds, the GAO is given comprehensive audit and access-to-records authority over all agencies, corporations, organizations and other entities which perform any functions or activities under this legislation. The GAO is given such authority with respect to, for example, the Resolution Trust Corporation, its Oversight Board, the Resolution Funding Corporation, and the FSLIC Resolution Fund.

e. Preemption of State law in emergency acquisitions

Section 218 of the bill amends the Federal Deposit Insurance Act by adding a limitation on preemption of State law. This limitation partially reverses the decision of the FHLBB in *The Statesman Group, Inc.* (March 11, 1988) by making clear that State law is preempted only to permit a company to acquire a failing institution. Congress has not displaced any State law that limits the institution's post-acquisition activities on behalf of an affiliate or any other entity. In addition, with a few narrow exceptions, Section 13(k)(1)(A) cannot be used to preempt State law.

f. Conversions of mutual thrifts

The bill preserves the existing provisions of Federal law concerning conversion of savings institutions from mutual to stock form except with respect to conversions instituted for supervisory reasons, current Federal regulations governing conversions from mutual to stock form as well as many state laws that have been patterned after Federal rules, require a converting institution to provide its depositors with various rights, including (i) priority subscription rights to the new stock and (ii) a liquidation account specifying what a depositor would receive in the event of a complete liquidation of the institution subsequent to conversion from mutual to stock form (unless such conversion is instituted for supervisory reasons as established under regulations of the Chairman of the Savings Association). A depositor is not entitled to a mandatory distribution from an institution's net worth or surplus under any other circumstances including in connection with the conversion from mutual to stock form. These rules thereby protect the interests of the depositors in the mutual institution and also permit a converting institution to raise capital and thus operate in a safe and sound manner for the benefit of depositors, other customers, and the deposit insurance fund. The COSA

would continue to apply these principles under the bill.

g. Acquisition of thrift institutions by bank holding companies

Section 601 facilitates the acquisition of thrift institutions by bank holding companies. Such acquisitions must, however, be made under section 4(c)(8) of the Bank Holding Company Act, subject to all of the requirements and restrictions applicable under that section. Section 601 does not authorize a thrift institution acquired by a bank holding company to engage in any activity that would otherwise be impermissible under section 4(c)(8).

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ADDITIONAL VIEWS OF SENATOR D'AMATO

The comprehensive and timely work of the Banking Committee on this bill is commendable. Under the able leadership of Senators Riegle and Garn, we have dealt with a problem of mind-boggling enormity in a most expeditious manner. Therefore, it is no crticism to say that this legislation is not perfect.

Certainly, while the Committee has done a fine job of addressing all the major issues, we have left many important issues for another day. This fact is understandable in the face of the urgent need to fund the resolution of failed institutions and close thrifts that are losing large amounts of money every day. This bill provides ample tools and direction to accomplish these priority goals.

As with all reforms of such comprehensive scope we cannot know every effect that will result from such sweeping changes. We are furthermore handicapped in our ability to comprehend the full impact of this legislation by the extraordinary speed with which this package has been assembled. For this reason it is important that the Committee and the Administration closely monitor the implementation on this legislation. In one respect, I fear that we have impaired our ability to control the new regulatory and deposit insurance regime that this bill creates.

This bill will create an unprecedented and sweeping new regulatory scheme. The FDIC will exercise broad new regulatory powers and it will also act as agent, exercising the powers of other organizations. It will continue to regulate State banks and will be a key regulator for the post-FIRREA thrift industry. It will be the agency responsible for management of failed institutions. The FDIC will have an increased scope of responsibility as an insurer, becoming the insurer of almost all deposits in the United States. In short, the FDIC will assume an unprecedented role in the regulation of the banking and thrift industries in America.

It comes as no surprise that in a time of a "crisis" such as the FSLIC insolvency that we look for a hero to take control of the situation, restore calm and return the world to normalcy. The current "hero" is the FDIC. Everyone is aware that the FDIC has done a good job of managing the banking insurance fund and I do not dispute the solid reputation that the Corporation and its current Chairman enjoy and deserve.

However, I believe that the Committee's bill engages in some excess by granting not only increased authority to the FDIC but increased autonomy. The Administration's version of S. 413 included two provisions that were important means of monitoring the work of the FDIC. It placed a cap on the borrowing authority of the FDIC at the lesser of 50 percent of adjusted net worth or $10 billion. While this cap may be somewhat overly restrictive, erring on the side of limiting borrowing is wiser than granting too much and running the risk of extraordinary losses, as we have just experienced with FSLIC.

Whether the Committee's modification of the Administration's limits grants too much borrowing authority to the FDIC is an issue of grave concern. With greater time for reflection, tempering our current sense of crisis, we may need to consider this matter more thoroughly.

Reports on the current financial condition of the FDIC funds are an excellent tool to assist both the executive and legislative branches of government in performing their supervisory functions over the FDIC. As recent events prove, we can no longer abide the myth that the Federal treasury is not exposed to the risks of deposit insurance. I strongly support the Administration's proposal for quarterly reporting by FDIC on the financial condition of its deposit insurance funds. These reports will contain the type of timely information that is useful both as early warning of potential problems and much needed reassurance when the funds are strong and growing. The original S. 413 would have required a report to both the Secretary of the Treasury and to the Director of the Office of Management and Budget. I believe that the Committee's elimination of the requirement to report to OMB as well as to the Treasury Department is as much compromise to the convenience of the FDIC as the Congress should allow.

In summary, I am proud to support this legislation as a solid and well-designed program for ending the debacle in the thrift industry and funding the FSLIC deficit. As we monitor the thrift industry and the deposit insurance funds of the future, we must bear in mind that no single solution to any problem of this magnitude is ever sufficient and we must therefore keep vigilant watch over both our old villains and our new heroes.

ALFONSE D'AMATO.

ADDITIONAL VIEWS OF SENATOR LARRY PRESSLER

During the hearings on this legislation, several well-informed witnesses strongly opposed the requirement that the new capital standard be fully phased in by June 1, 1991. They stressed that it is impossible for most of the savings and loan institutions to meet the capital standards timetable, especially considering the other provisions of the bill that will result in reduced earnings and discourage outside capital. What we see occurring in the marketplace and in the interest rate environment only worsens the situation.

The foregoing is especially true of small thrift institutions that are not different from other small businesses when it comes to increasing capital through earnings or attracting outside investment. They are at a great disadvantage, and this legislation makes no provision for them.

In recently reviewing the bill, I was struck by the fact that there is a heavy advantage toward the larger institutions. Provisions pertaining to amortization of goodwill and pending but not completed acquisitions are good examples. While provision is made for some large institutions, very few small thrifts benefit because very few are in those situations.

That is why, as I indicated in the markup, I would like to offer a small thrift business amendment to this legislation when the measure is considered by the full Senate. I would have liked to have pursued a Committee vote on this subject had we identified this problem earlier. Specifically, the amendment is designed to help small thrift businesses to meet the new 6 percent capitalization requirement on a more reasonable timetable if it is justified under certain conditions.

I would use the Small Business Administration definition of "small business" as it applies to this industry, which is an institution having assets of $100 million or less. This was the standard that was used in the Competitive Equality Banking Act of 1987 (Public Law 100-86). Significantly, it permitted any agricultural bank to amortize its loss on any qualified agricultural loan over a seven-year period, thus helping to maintain the bank's capital requirement.

Under the amendment, a qualified small thrift institution would be considered in compliance with uniformly applicable capital standards not less stringent than standards applicable to national banks if it maintains specified capital standards according to benchmarks extending over a period ending no later than June 1, 1994. Under my amendment, these small institutions would have to be solvent and be able to show they can meet the new requirements and timetable.

I encourage my colleagues to give this small business aspect of the thrift industry their most serious attention and review.

LARRY PRESSLER.

Mr. ROTH. Mr. President, I rise in support of S. 774. This legislation is urgently needed to put the thrift industry in order. The problem is serious and growing. Like others, I wish to compliment the Senator from Michigan, the chairman of the Banking Committee, for leading us through an exhaustive study of the problem under emergency conditions and quickly bringing this bill to the floor.

This is a complex subject. It is easy for the American public to become somewhat confused in watching Congress. This is not a bailout of a company or an industry found too important to fail. We are not bailing out the owners or managers of S&L's throughout the land. No, in fact, they are asked to bear a heavy burden. The guilty S&L's will be punished and the innocent will be required to help pay for the sins of the guilty.

The only person being bailed out in this legislation is the depositor. We do this to honor our commitment made decades ago that the Government guarantees all but the largest accounts. It has proved to be an expensive commitment. But we have no choice. We must act now.

The committee voted to report this legislation 21 to 0 to honor that commitment. There is no question that each of us, including the chairman, would have preferred legislation more in line with his personal thinking. But this legislation is the product of a clash of forces on many issues and rather accurately reflects a consensus of the committee.

The legislation has two functions. The first is to protect the depositor at

failed S&L's. The second is to reform the system to make sure that this problem never happens again.

The best way to analyze what steps need to be taken to prevent a recurrence is to assess why the problem first arose. In my opinion, the fundamental problem was that we allowed S&L managers to operate without capital. This way, when managers made their investment choices, they were betting not their money but ours. If they bet right, they kept the profits. If they bet wrong, there was deposit insurance.

Thus, as I see it, the lack of capital was the essential problem. Others might prefer to emphasize another truth—certain investment did not succeed. For such others, the solution is to look back over the history of investments in the eighties and prohibit, or at least restrict, the poorer investments.

While the argument may apppeal to some, I must say that Congress' track record as an investment manager should give one cause for concern. The legislation, like every compromise or consensus, reflects diverse elements, here the view that lack of capital was the problem and the view that certain investments should be prohibited or restricted as well as the views of those who disagree.

My personal view is that I am inclined to allow investments in nonbanking activities so long as the investors are betting their own money. I have found that that makes people think a lot harder about the wisdom of an investment. Moreover, the sharp line that others see between a safe investment and a risky investment is illusory. Yes, some investments are less risky than others. Treasury bills are safer than corporate bonds. But on the other hand, investments in home mortgages, which this bill finds to be the safest of investments, were the original cause of the thrift industry's problems in the late seventies. How quickly we forget! And the investments that failed in the eighties—such as direct investment in real estate—just skyrocketed in the seventies.

Therefore, I view with some skepticism the notion that we can help thrifts make better investments by curbing their powers. Most investments have their good years and their bad years. In contrast to such cycles, statutory language is static. Furthermore, the people who are elected to write statutes are not known for their market brilliance.

Thus, I would conclude that statutory prohibitions are clumsy guides to investment strategy. The best policy to protect the taxpayer from a recurrence is to require that investors risk real capital.

The bill embraces this policy in part. It requires that thrifts meet capital standards like banks by June 1, 1991. But there are exceptions. The most significant is for goodwill. Those with goodwill on their books may use it in lieu of real tangible capital for 25 years. While there is an explanation for this excessive exception, there is less justification.

The explanation is that Government regulators promised thrifts who bought failing thrifts that they could use goodwill as capital for various periods of time, ranging as high as 40 years. In some cases, the Government had to give less cash to induce the merger because the capital forbearance was worth money to the acquiring thrift. This goodwill is called supervisory goodwill, goodwill blessed by the regulators. However, since the committee could not distinguish between supervisory goodwill and other goodwill, all goodwill falls under the exception.

But the exceptions do not stop there. Whereas supervisory goodwill was buttressed by the argument that "a deal was a deal" and that the Government should not break a promise, no such argument supports the committee's decision to accord 10 years for goodwill with respect to deals that have not been consummated but for which application has been filed. This exception seems to have neither an explanation nor a justification.

While these exceptions to the bill's tough standards leave the taxpayer vulnerable to a recurrence, I do not believe that on these points the judgment of Congress will differ much from the judgment of the committee. But I retain the hope that in conference, where the legislation will receive its final cast, some improvements may be made.

In my opinion the mission of this legislation should be to raise capital standards and then to do whatever prudent and reasonable to invite capital into the thrift industry so that the standards might be met. That's the best way to assure the taxpayer that Congress will not have to call upon him in the future to resolve another thrift crisis. When thrifts fail, the insurance fund and, in turn the taxpayers are put at risk.

While it may be difficult to protect thrifts from economic forces that may cause failures, it should not be a mission of this legislation to itself eliminate thrifts. One aspect of this legislation, which I find a bit curious, does just that.

Perhaps the best way to explain this is by analogy. Let us return in time several centuries to the middle ages to a day when the plague swept the land. People were dying and the Government was called upon to assume the costs of burying the dead. But a theologian appeared who claimed that many healthy people had lost the faith and should be disposed of along with the dead even though they did not have the plague.

If this seems foolish today, I get the impression that only a few see it as such. Today's theologians are the idealogues who believe that healthy thrifts should be eliminated if they fail the test of faith, known as the qualified thrift lender test or QTL test.

The administration and the committee have joined together, one to refine and tighten the test, the other to provide the penalty for failure. While the American public is being asked to pay billions to bury unhealthy thrifts, the legislation will create a new test with severe penalties for failure. It will take institutions that are in no need of financial help and eliminate them because they lost the faith.

The new QTL test is designed to make thrifts focus their investments on home mortgages. Today, the function of the QTL test is to determine which thrifts get advantages, such as low-cost loans from the Federal home loan banks. Today's theologians say that the test is too loose and not rational.

My response is twofold: First, I do not necessarily buy the argument that it is good for thrifts to put more and more investments in one basket. Second, and this is the point of my analogy, when thrifts are dying, it is hardly the proper time to impose a tough purity test. It doesn't make sense—at this time—to drive healthy thrifts out of the business.

Formally, the bill would require thrifts that fail the test to become banks. Remember, this test differs from a capital standards test which attempts to define health. This test defines purity of housing purpose. Even the sound may fail.

The requirement to become a bank may carry all sorts of dire consequences. It may mean that substantial tax breaks must be paid back regardless of compliance with the Tax Code. It may mean that hefty fees must be paid to leave one fund and enter another. It may mean that thrift powers will be terminated to matter how profitable they were. Moreover, a thrift that is a mutual or owned by a nonbanking entity may not qualify as a bank.

These are severe penalties. In combination, they may spell death for a healthy thrift. At the least, this is the wrong time for this kind of test.

Unfortunately, the administration and the Congress seem to be in agreement. Both seem willing to bury the dead and the healthy heretics together. Perhaps this is something that the Nation should reconsider in view of the fact that burial costs run into the billions of dollars. If defense of heresy cannot raise legions, perhaps defense of the pocketbook can.

I do not criticize the new QTL test because I am soft on the thrift industry. It is because I am soft on the taxpayer. And the best thing for the taxpayer is to create a healthy thrift industry so that depositors do not face the risk of default. Thus, for the taxpayers' sake, the best policy is to invite capital to flow into this industry. But we make the invitation unattractive if we create new tougher tests of housing purity and limit investment options.

I recognize that the committee has a different view. It believes that the QTL test defines the essence of a thrift; if thrifts don't meet the QTL test, they should not be thrifts. And it believes that by channeling thrift investments into a narrower range, it is producing sounder institutions. I understand the argument but remain unpersuaded.

I do not mean to suggest by raising these concerns that I feel that this legislation is a bad bill. While I speak in stark terms to make a point, the bill is an amalgam of many viewpoints. Although my views may not be reflected perfectly in this legislation, no one's are. And while I question the direction of a few key provisions, it should be noted that there are dozens of key provisions and scores of others. So I do not speak to create opposition but rather in hopes of furthering the development of this legislation.

The committee has done a lot in a short time. It has done well. I compliment my colleagues on their labors and invite their attention to my views.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, the business before us today is sweeping legislation to address the very real crisis in the savings and loan industry. No one questions the necessity for such legislation. No one questions the necessity for prompt enactment of legislation. No one questions our obligation to the savings and loan depositors. Certainly no one envies the job of the chairman and ranking member of the Senate Banking Committee in all this either.

I respect the fact that the chairman, who is a friend of mine, spend 17 full days having hearings in his committee, worked with the ranking minority member, a member for whom I have considerable respect as well, and the other members of the committee, to try to fashion a bill. Unfortunately, this Senator believes that the end product does not serve the purpose of the people of this country.

I am frank to say that I was just in a discussion having to do with the budget resolution that will shortly be coming before us.

In connection with that budget resolution, the discussion revolved around modest amounts of money, $2 billion, $1.5 billion, $3 billion, $4 billion, $6 billion. This bill involves in excess of $157 billion of the people's money.

I will return to that matter of money in a moment.

There are hundreds of insolvent thrifts and hundreds more tottering on the brink of insolvency, and some say as many as one-third of the more than 3,000 savings and loans are in serious trouble. The Federal Savings and Loan Insurance Corporation lacks the receipts needed to cover the deposits in these institutions. It is, therefore, imperative that we take action to protect American depositors who have their savings in these troubled institutions. But does it mean that we have to do it at this very minute? Or that we cannot wait a few days, a few weeks, to see if we can come up with a better answer? I think not.

We needed to restore confidence in these financial institutions so that the whole house of cards does not collapse. And any solution to the problem will undoubtedly be extremely expensive. Expensive enough to boggle the mind.

I say to my colleagues in the Senate and I say to the American people, this is the most expensive bailout in the history of the Nation.

I remember when this Congress spent many hours discussing, I think, a figure of $250 million to help Lockheed Corp. I remember because I was personally involved in the discussions and tried to be helpful.

When the $3 billion aid package for Chrysler came before this body, we fought that issue back and forth, back and forth. It was $3 billion, a tremendous amount of money.

We passed it. We loaned them money. We actually wound up making some money on that deal. But the fact is we are today talking about a deal more than 50 times as great as that one, and there is very little discussion being had as to the substance and the problems of the legislation.

The statement is made to me: "Do you have a better answer?" I could not have a better answer if I was a genius, which I am not, but the fact is I did not get a copy of this bill until 10:30 Saturday morning. I had four members of my staff over the weekend working on it calling me and telling me what is in it and trying to discuss it.

I know that the administration sent a bill up some weeks ago, but I know administrations send lots of bills up. Until those bills become a matter of the committee's effort, that is not the bill that is going to be considered by the Senate or the House.

I do not envy the task with which my colleagues on the Banking Committee were confronted. It was a tough job. There were no easy answers. But having said that, I rise to object. I want to make it clear, I object to the force with which the taxpayers of this country are about to take it on the chin. They are about to be handed the bill for these ailing thrifts which will wind up costing them billions and billions of dollars.

I am not sure—in fact, I am pretty sure—that the American public is not aware of that fact. I do not think they realize what is being considered on the floor of the Senate today. There are some who say we have to pass it before Wednesday. Why? The House is not going to act until sometime in May and even then that is not a definite date. I believe that is the date when it goes before their full committee, when it comes out of the subcommittee. There is no assurance it will happen then.

Why are we pushing? Why are we fighting? Why do we say we have to pass this bill so promptly? Why can't this committee call in some of those who have been expert in bailouts and renegotiations and restructuring of deals? I know that they have had experts, they have had professors, they have had 17 days of hearings, but I am not sure there is not somebody out there that does not have a gem of an idea.

Over the next decade, this savings and loan bailout package will cost in excess of $157 billion. This Senator believes that there are people—I do not know whether their brains have been picked or not—like former Secretary of Treasury Blumenthal; Felix Rohatyn, who did such a magnificent job for the city of New York. When it looked like the city of New York was going to go bankrupt, Felix Rohatyn, came in and put together a concept and made it possible for the city to issue new bonds, for the city to pay off those bonds, for the city to restructure itself and be on a sound financial footing. I think he is exactly the kind of man that should have been brought in to help us with the savings and loan bailout. I think there were others. There could have been Tony Salomon, one of the large investment banking firms in New York. There are dozens of people who I believe could have come up with a concept better than the one we are studying.

My colleagues say to me, tell us what your answer is. Give us a better answer. On Saturday at 10:30, I get a chance to see the bill, and I am supposed to read the 564 pages and then to come up with an answer at this point? I think there are improvements

that can be made, and I will address myself to some of those improvements before we get done.

But I believe the whole structure, the whole concept of one of the items—I know that Danny Wall is a friend of some of the Members of this body, a good friend of some of them, but what an unbelievable situation it is that this man who worked out the deals that occurred at the conclusion of last year, these bailout deals, these deals where the savings and loans were sold and the Government gave tax breaks, not only gave tax breaks but guaranteed the income with respect to the assets owned by the savings and loans where the Government guaranteed all of that, the Government put up hundreds of millions of dollars for that, those agreements made just before the December 31 deadline, and Mr. Danny Wall is the head who negotiated all of those deals. They have received all sorts of publicity. What an incredible fact of life. Danny Wall is going to be in the same position for the next 4 years, as I read the language of this bill.

The cost of this bill, if I can impress it upon my colleagues, is more than the combined wages of all the public school teachers in America. We are trying to do something about the public schoolteachers in this country; we are trying to do something about education in this country, and here is a bill in one fell swoop we will pay not just some increase to them, we will spend more than the combined wages of all the public schoolteachers in America, more than the total income of every active duty soldier, sailor, and airman in the U.S. Armed Forces. With $157 billion, you could pay for a 4-year college education for 12½ million American kids. With $157 billion, the U.S. Government could build and operate over 100 permanent space stations. For $157 billion, the U.S. Government could purchase—and this is incredible—a $280,000 home for every homeless person in America.

We fight here and fight for weeks. What an unbelievable reality. Last week, or maybe it was the week before, we were on the floor of the Senate fighting about a 30-cent increase in the minimum wage for working people in this country. The President of our Nation has said that if we provide that 30-cent increase, he is going to veto the bill. This is another issue. I understand that. But the fact is for 30 cents an hour, the President will veto the minimum wage bill, or $157 billion and more will bail out the savings and loan institutions of this country.

I see every committee in this Senate—the Appropriations Committee, the Budget Committee, the Defense Committee, the Education and Labor Committee—dealing with issues having to do with women and infant aid. I see problems that we have as far as finding enough funds to do research in the field of AIDS and in the field of Alzheimer's. I see this body that tax senior citizens to pay for their long-term hospital care. But now all of those items are peanuts, peanuts, little league items, as compared to the $157 billion and more that is involved in this bill. The taxpayers of this country are going to wind up paying a huge part of that $157 billion.

What the taxpayers do not pay generally is going to be paid by the depositors—the depositors, who are the same people. They are going to wind up paying because the bill requires the banks and savings and loans to pay higher Federal insurance premiums and these costs will be passed on to individual banking consumers. The depositors and the taxpayers of this country under this bill will pay and pay and pay, and they are the only ones who pay, no one else. They will pay it on their checking accounts, they will pay it on loans, loan fees, they will pay it on deposits and withdrawals. They will pay. Call them Mr. Sucker. They are the ones who are going to bail out the savings and loans that went belly up.

The Consumer Federation of America says that if insured financial institutions allocate these costs to consumers—and who in this body thinks they will not do so—the poorest 50 percent of the population, families who earn only about 18 percent of the Nation's annual income, would bear 36 percent of the burden—36 percent of the burden for a problem not of their making. The taxpayers of this country are going to wind up paying because funds for recapitalization are going to be raised through bonds floated by a complex web of quasi-public corporations. I might challenge any Member of the Senate to take out that 564-page bill, get to the section where the bonds are issued, and see if you can understand it.

Now, these new bonds will not be backed by the full faith and credit of the United States. As a matter of fact, it is my understanding the chairman of the committee wanted to do just that because he was aware of the fact that if they were backed by the full faith and credit of the United States then you could borrow at a lower rate, but, no, the interest rates will be higher than if they had been issued by the Treasury. The difference will be made up again by whom? The taxpayers and the depositors of this country. Why is that? Because they wanted these bonds off budget. They wanted these new bonds, about $50 billion of them, to be off the budget, but the fact is I do not know what difference it makes because this bill still violates the limits of Gramm-Rudman. At an appropriate time a point of order will be made either by those handling the bill or by this Senator in order to provide for a waiver.

Senator RIEGLE tried to fix this matter of it being off budget in committee. He did not prevail. So what is the result? The Government will spend more money to pretend it is spending less money. They do not want anybody to know we are violating Gramm-Rudman, so therefore it will be off budget. Somehow that makes everybody feel better—no violation of Gramm-Rudman, but it will cost I do not know how much more. If the rate at which these bonds could be issued by the U.S. Government was 9 percent, which is the rate as I understand it for 30-year Government bonds today, then these new bonds, which will not be backed by the full faith and credit of the U.S. Treasury, will probably go at a 10-, 10.5-, or 11-percent rate. I may be wrong in that figure. I am willing to be corrected. But that is my guess.

So the big losers in this catastrophe are apparent—the average taxpayer, middle-income Americans, families who have a right to expect more from their Government.

Now, are there any winners? Does anybody come out of this whole mess on easy street? You bet your sweet life they do. You bet your sweet life there are some who are just rolling in the money. Now, take the lawyers who are putting together the mergers and acquisitions of insolvent thrifts. Would it surprise anyone in this town that the most successful of these attorneys are former officials of the Federal Home Loan Bank Board? Isn't that the way it always is? Would it not surprise anyone that the former general counsel at the Bank Board under whose watch the industry began its slide has billed his clients $12 million for his work on savings and loan mergers?

Now, he is not alone, of course. According to the Wall Street Journal, another law firm includes no fewer than seven former regulators of the Bank Board.

Private citizens are not the only ones paying for this revolving-door expertise. Last year the Bank Board itself and FSLIC paid over $100 million to outside law firms for consulting work in mergers and acquisitions. Are they the biggest winners? No way are they the biggest winners.

Mr. President, most American shoppers know that the week between Christmas and New Years is an excellent opportunity for bargain hunting. In 1988, one particular yearend closeout attracted some of the smartest shoppers in America. In a frenzy of dealmaking and around-the-clock negotiating, the Federal Home Loan Bank Board put together what Business Week magazine called "The great savings and loan giveaway." Business

Week called those deals "The great savings and loan giveaway."

Attracted by expiring Federal tax breaks—the law was to expire as of December 31, 1988, that portion of it that permitted a 100-percent tax break—some of the world's savviest businessmen and most powerful dealmakers descended on Washington for a piece of the action. That should not be surprising. There is only one kind of person who can make use of multimillion dollar tax breaks, and that is the multibillionaire. So with surprisingly little money down, some of the biggest investors in the country, including even Ford Motor Co., received what another business journal described as "One of the best deals that a free society ever offered to its richest and most powerful citizens, a truly staggering opportunity for a few extremely wealthy persons to effect what is basically a Government-sponsored, no-risk leveraged buyout on a truly heroic scale financed with money taken from the ordinary taxpayer." That from a business journal.

According to the chairman of the House Banking Committee, "The manner in which the Bank Board enters into these transactions and commits taxes and other resources of the Federal Government is a far cry from the system of checks and balances and public disclosure which most of us believe is the core of a democratic society."

William Seidman, Chairman of the Federal Deposit Insurance Corporation, called the December deals "an unusual situation where a Government agency can add $30 billion to the Federal Treasury's obligations in 4 weeks without congressional actions."

I think the number, Mr. Seidman, is actually higher than that, but your point is well taken. "An unusual situation where a Government agency can add $30 billion to the Federal Treasury obligations in 4 weeks without congressional action."

Mr. Seidman added a very relevant comment. "I didn't know we regulators had such powers." I did not know they did either, and I am not sure how many Members of the House and Senate did.

Mr. President, I intend to get into the complex nature of these deals later in the debate. But let us back up a moment. Let us revisit some of the issues that forced us into this corner. What caused the problem? Who is to blame for the entire mess? On this question I agree with Bank Board Chairman Danny Wall. "There's plenty of blame to go around," said he. State banking laws allowed lending in risky ventures.

During the seventies, inflation, falling oil prices, and declines in the real estate market wreaked havoc in the Southwest. Now we have lived through 8 years of deregulation fever. In 1982 Federal deregulation of savings and loans allowed them to diversify their investments. It removed Federal interest rate ceilings, and it cut back on the amount of cash reserves the thrifts were required to hold.

Deregulation was followed up with relaxed supervision by the Federal Home Loan Bank Board. After all, the Reagan revolution held that the market regulates itself, and that any government intrusion in that market was unwarranted, unnecessary, and unwelcome.

With deregulation, a whole new frontier was opened to the savings and loan industry. Out went the Jimmy Stewart model—you know, George Bailey, of the building and loan. Out went low-risk home loans with low interest savings deposits by small-town America. In came the era of fast-paced wheeling and dealing—big cars, huge estates, fast planes. In came the era of the Ed McBirney, and it was a wonderful life all right.

Few Americans have heard of Ed McBirney but at one time he was a kingpin in the savings and loan industry. And he is a case study in the blind greed and reckless abandon that helped to bring us here today.

In 1982 as a 29-year-old real estate whiz, Edwin T. McBirney III headed an investment group that bought Sunbelt Savings, an obscure savings and loan headquartered in Stephenville, TX. They put up $6 million—$6 million.

In less than 4 years Sunbelt was a $3.2-billion financial empire. They made commercial real estate loans. They owned nationwide mortgage and development service companies. They had real estate interests all over America.

McBirney and other executives relied upon a fleet of seven company aircraft to shuttle them about. McBirney financed hundreds of high-risk loans—land, shopping centers, apartment projects, office buildings. Get this one. He financed the purchase of 84 Rolls-Royces from an Indian guru.

And the parties, oh, they were so lavish. According to Texas Monthly magazine, at a 1984 Halloween party Mr. and Mrs. McBirney served up lion, antelope, and pheasant. They rented fog machines. The American people are probably in a fog by this time as to what has happened to them. They rented fog machines and hired disco dancers. The next Halloween Mrs. McBirney created an entire jungle in a warehouse complete with a live elephant.

According to Business Magazine, "Sunbelt Savings shelled out $1.3 million for Halloween and Christmas parties in 2 years, including a $32,000 fee to Mrs. McBirney for orchestration."

What a party! And I imagine the taxpayers of this country who might be able to hear what I will say would be very surprised at the fact that Mrs. McBirney was paid $32,000 for orchestration in connection with the $1.3 million spent for Halloween and Christmas parties in that 2-year period.

The firm also picked up the tab at four-star restaurants like the Mansion at Turtle Creek and Jason's Steak House and, yes, at shops like Neiman Marcus. Total, $278,000.

Make no mistake about it, Mr. President. You, I, and the rest of the American taxpayers are paying for those parties today.

Ed McBirney was forced out as chairman of Sunbelt in 1986. But his legacy lives on. Now controlled by FSLIC, it will take an estimated $6.1 billion in Government funds in the next 10 years to restore Sunbelt.

Is Ed McBirney solely responsible for the crisis we face? No. Certainly not. Is the Ed McBirney case atypical? Is his an unfair example to raise? Certainly not.

According to GAO testimony before the House Subcommittee on Criminal Justice, given on March 22: "The huge losses which will ultimately be passed on to the Nation's taxpayers did not come about primarily because of such factors as economic conditions or deregulation. Instead, the bulk of the losses are directly attributable to the failure by management of a minority of the industry to follow basic prudent business practices, including the establishment of effective systems of internal control."

The GAO study in 26 failed institutions found that most of these institutions violated Bank Board regulations governing transactions with affiliates, regulations governing conflicts of interest, and limits on the amount of loans made to one borrower. They violated all of those limitations.

GAO ranked some of the common characteristics of these failed institutions: Inaccurate record keeping or inadequate controls, 26 out of the 26 they studied; change from traditional to high risk activity, 26 out of the 26 they studied; inadequate credit analysis, 24 out of 26; inadequate appraisals, 23 out of 26; excessive loans to one borrower, out of 26 institutions, 23 of them made excessive loans to one borrower; overreliance on volatile funding sources, 12 out of 26; transactions with affiliates, 21 out of 26; conflicts of interest, 20 out of 26; excessive compensation, 17 out of 26. My guess is that of the other 9 you would find that they did not need the compensation from savings and loans institutions because they had other private investments outside where the savings and loan was making the loan. It is no wonder the horror stories abound.

GAO reported one insolvent thrift paid the chairman of its board of directors a $500,000 bonus the same year

the thrift lost almost $23 million. That is absolutely unbelieveable. A bonus of $500,000 when the institution loses $23 million.

Some would say, well, Senator you are talking about yesteryear, and we are going to be better. I say to you this bill does not do enough about seeing to it that we will do better. This bill permits goodwill, for example, to be included as the equity base of the savings and loans.

This bill does not provide for the kind of capital base that is needed, and the Banking Committee had a little bit better bill and changed it on an amendment by one of its members. It should reverse that action.

The Wichita Federal Savings and Loan was talked into investing in the futures market by financial consultants. Into the futures market they went, and out it got a few months later, that is, after losing millions. Those consultants, of course, still received hundreds of thousands of dollars in fees for the bad advice that crippled Wichita Federal.

At one savings and loan, an $800,000 bonus was paid to an executive. That happened to be one-third of the total earnings of the thrift. When regulators questioned the amount as excessive management withdrew the bonus. Was that not wonderful? When the regulators questioned it, management said, "OK, we withdraw the bonus." They then paid the executive $350,000 to relinquish his right to future bonuses and increased his salary from $100,000 to $250,000 a year.

So they took it away with one hand and they gave it to him with the other hand.

North Amerian Savings and Loan of Santa Ana, CA, founded by a dentist named Duayne Christensen. In one series of illegal deals, a condominium complex was bought and resold—back and forth—by subsidiary companies of North American owned by Christensen—each time at a higher price. So North American thereby was able to inflate its assets on paper. In 1986, Christensen's top aide, Janet McKinzie, bought $97,000 worth of jewelry, ran up over $247,000 in department store bills, and bought Rolls Royces for herself and Christensen.

Unbelievable.

It is unbelievable that the American taxpayers are now going to be forced to cover those expenses.

One majority stockholder in an S&L used $2 million of the institution's funds to buy a beach house for his personal use. That was bad enough, but then he took another $500,000 for expenses while he stayed there.

The New York Times quoted the U.S. attorney in Dallas as saying "I have stopped predicting the extent of the fraud. It is greater than I expected."

Are we going to recoup any of those ill-gotten gains? Will these bank-fraud artists ever be brought to justice?

Do not hold your breath.

They will get the guy who does some little criminal act in the inner city. They will get those people all over the country and, yes, they should. But the fact is that these were the executives of companies who literally stole the money indirectly from the taxpayers of this country.

Thousands of individuals have been implicated. I saw John Chancellor on the nightly news not so long ago. He indicated that out of 4,000 who were waiting to be prosecuted, only 23 cases had moved forward—23 out of 4,000.

Precious little has been retrieved by the Government.

The party's over. The money's gone. Vanished. According to Joe Selby, a former regulator for the Federal Home Loan Bank of Dallas, "A lot of money got up into people's pockets and they've ratholed it somewhere. Some of it is in artwork, fancy homes, fancy airplanes, and Rolls Royces. Some of it went to Rolex watches, lizard shoes, hunting parties and yachts."

So here we are today—rushing to pass a complex 564 page Federal bailout of the savings and loan industry, a copy of which was not even available until Saturday.

And I say without fear of contradiction, that other than the members of the Banking Committee, and I am not sure how well they know this bill, but other than those members, 79 other Members of this body are not familiar with its contents.

But we are rushing to pass sweeping legislation to take care of a problem caused in large part by a corrupt group of characters who made free-wheeling investments under the sleepy eye of Federal regulators.

The argument has been made "We've got to do it now; can't afford another day's delay; the President wants the bill."

Well, I agree with the President that we ought to have a bill, and I agree we ought to have it as soon as possible. But the fact is it is not costing anything for the delay because they say that there are losses that are being incurred.

First, I heard where the losses were being incurred at the rate of a million dollars a day. That did not sound to be too persuasive. So next I heard the losses of present savings and loans were running up to $20 million a day. And today I heard one really pulled out of the hat, $200 million a day.

I do not know what the Banking Committee can say as to what the losses are but make no bones about it the minute this bill clicks into place the American taxpayers are on the hook for the cost of the interest on $50 billion or $100 billion.

And perhaps the chairman of the Finance Committee can advise me of that but as I see it, it is $100 billion they will be on the hook for and $100 billion means about $10 billion a year in interest. Figure that out for yourself, and you will see that it may be a bargain to take the present losses rather than taking this $10 billion a year hit in order just to pay the interest, just to pay the interest on the new bonds.

And what makes the whole thing even harder to swallow is the real concern that what we are doing today will not even prevent this type of crisis from happening again.

The bill does not protect against that kind of crisis happening again. It restructures some of the Federal agencies. It takes the authority away from FSLIC. It keeps Danny Wall in the position that he was before. It provides for a different kind of a new corporation and a new kind of trust, and today an amendment was offered to get more public members into that trust responsibility, but no, the amendment was defeated.

The safety and soundness of the system will still be in question after this bill is passed, and I expect it to pass.

I do not know that anybody else is going to join me in voting against it, but I will say this: Those who vote for this bill will look back in future years and say "I guess I made a mistake; I guess I made a mistake."

This bill will hang on the shoulders of the 101st Congress for many, many years into the future. It will be a burden that we are passing on to our children. It will not go away in 10 years. In fact the new bonds are to be financed over 30 years. For what purpose? Is there no better solution? The chairman might ask me, "Senator, do you have a better solution?"

"No." Do I think there is a better solution? Yes.

"Can you tell me what it is?"

"No."

That is because I just got ahold of the bill on Saturday and we are trying to deal with this on the floor with respect to amendments and with respect to addressing ourselves to the substance of the bill. And how do you contemplate, how do you construct something better under the pressure of that kind of time?

It is not an easy job. I am not saying I am capable of doing it. I think Felix Royhatan is capable of doing it. I think there are some other people in the country capable of doing it, former Secretaries of the Treasury.

I guess Paul Volcker was one of the witnesses. I do not know whether he thinks this is the greatest plan that ever came down the pike.

But I still say this: I cannot believe that this is the best solution we can come up with.

According to Consumers Union and Consumer Federation of America, this bill gets a failing grade on its provisions concerning future capital reserves.

The bill does not require thrifts to meet any specific core capital requirements. Instead it says—listen to this—that the Feds should devise minimum capital requirements similar to those higher standards required of banks.

They have not done that for the last 10 years. What makes us think there is a new group of players that they are going to do it now?

Why do we not write it into the law? Why do we not say what they have to do? What it also says is that S&L's can continue to count funny money as real money. Unlike banks, the bill lets thrifts count phantom assets like supervisory good will as real capital.

I was on the board of a large bank, the principal owner of that bank. I was familiar with both the banking industry and the savings and loan industry.

I must confess, as a business person, I have never before heard of supervisory good will. Somebody came up with a concept that this Senator never heard of. Maybe it is something I should have learned. But I do not know what supervisory good will is. Because if there is any supervisory good will for the kind of supervision that the savings and loans have been given to date, then it is a negative figure, not a positive one. But this bill specifically provides that supervisory good will can be used as a part of real capital.

It is sad to say that there is not much in this bill to make financial institutions more accountable to consumers, communities, and taxpayers. There is not a single word in this bill to protect those consumers who are the most vulnerable to any bailout plan and the least responsible for the whole mess.

I wrote to the chairman of the committee and I suggested a number of consumer amendments. That would not have solved the problems of the bill. It would not have made it a perfect bill, but it would have indicated a willingness to take into consideration some of the concerns of the low-income Americans and senior citizens of this country. Those are the people who are going to be driven out of the banking system by reason of this bill because of higher costs associated with this bill. They still will not have a place to cash their Government benefit checks. They still will not have low-cost banking accounts available to them, even though those high premium fees will force more people out of the banking system and more will be forced into paying high fees at the check-cashing stores to cash their Social Security and VA checks.

This bill will not correct the pernicious problem of discrimination by bankers lending money. According to the Atlanta Journal Constitution, savings and loan institutions reject black applicants for home loans twice as often as whites. The bill solution—oh, this is a doozy—a call for a study of the problem.

Now, come on. We can do better than that. Let us put some language in that says something about their obligation to treat members of minorities on as equal a basis as all other people.

I need not say to the distinguished Senator from Michigan, who is my friend and for whom I have a lot of respect, that his record with respect to civil rights and human rights is as good as any Member of this Senate.

The savings and loan bill does not have anything in it other than calling for a study. I urge you to draft an amendment and make it a committee amendment so that at least we make that little headway on that kind of problem. The problem exists. It is real.

Again, I repeat, there were no easy answers for the committee; no way to do this cheaply; no perfect or painless solutions.

It was not easy for me to come to this floor to speak against the bill which is being handled by DON RIEGLE. He and I sat next to each other for a good many years back there and we are long-time good friends. I salute him. I know that he has tried. I know that his heart is in the right place. I know it is the job of the committee chairman and the ranking member to reach a broad consensus.

But while we are taking these giant leaps to shore up this crisis in the financial community, did we take the small steps we could have taken to protect American consumers, American depositors, American taxpayers? I am sorry to say the answer is "No." No; Mr. President, consumers, depositors, and taxpayers are not being well served today.

Mr. President, that is my opening statement. I expect to be heard further on this bill. I expect to discuss with the managers various possible amendments. I do not expect the managers of the bill will be in full accord with everything I have said.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. GARN. Mr. President, I thank the Chair.

Mr. President, as I sat here listening to the distinguished Senator from Ohio, I debated with myself whether to just let it go or to stand up and respond. Because I think the Senator knows that, although we disagree more often than we do not on a wide variety of issues, I have great respect for his high intelligence and his integrity and the hard work he puts into his job. Whether I agree or not is not important. I feel this very strongly.

But I think his statement is misleading, although not intentionally. But particularly there is one point that I just have to correct.

I counted the Senator from Ohio saying at least seven or eight times about how we were bailing out S&L's, we were bailing out the S&L industry, an implication that somehow we were bailing out waste, fraud, and abuse, and Mercedes, and Rolls Royces, and things of that nature.

I want it to go out very clear from this Chamber that that is not true, and this is not in any way comparable to Lockheed, New York, or Chrysler. In those cases we were bailing out stockholders. We were bailing out management.

In this bill we are bailing out depositors, little people, poor people, rich people, in between; or this Senator would not be for it.

I voted against the Chrysler loan guarantee. I voted against Lockheed. I voted against New York. I do not feel that is the right of Government or should be, even if it worked. Chrysler worked and the Government made a profit. So what? The principle is still wrong. Businesses fail.

I am glad Chrysler is still in business, but so what if they had failed? It was not the taxpayers' responsibility to bail them out. I am glad it worked over my opposition.

Let us go back. I was not very old during the Depression. I was born in 1932, so I do not remember much about the Depression. I sure heard about it from my grandparents, and I sure heard about it from my father and mother, and I sure read about it when I was a banking and finance student at the University of Utah. I sure have seen the pictures of people jumping out of windows because they lost their deposits, they lost their money, the suicides that went on, and the utter chaos in this country through the 1930's.

I remember those black-and-white movies well about what went on and the devastation, what it did to families and those who worked for the Civilian Conservation Corps. The Government was the employer of last resort.

I do not think the chairman and I like this bill. There are no good answers. There is no good answer. In isolation, sure, we could all stand up; it is easy to come on this floor and criticize the bill. Certainly if I could write it, I have a better idea, the chairman has a better idea. Every single member of the Banking Committee, if he or she could write it as a dictator, obviously would do it differently.

The Senator from Ohio knows what the legislative process is all about. He

is one of the best ones at it. You go through a process of compromise.

And it is truly remarkable that with this difficult a problem, certainly the most difficult financial problem we have faced since I have been on the Banking Committee in 15 years, that 21 Senators of 2 parties could unanimously agree on a compromise package. I think that means a lot.

But I want to get back to my major point about talking about the Depression. We have to solve this problem, no matter how distasteful it is. And not one dime will go to a stockholder, not one dime will go to management. Management is being removed. Stockholders are losing their money.

This is going to depositors, and that is where it has to go. If we did not have the Federal Deposit Insurance system in place, the 1930's would have looked like a picnic compared to the way the money would have flown out of these institutions. And not just out of the S&L's. A collapse of the entire banking system of this country would have occurred with the runs if they did not feel safe in having a President, several Presidents, and Congressmen and Senators constantly saying: "The full faith and credit of the U.S. Government is behind your little savings account, whether it is $2,000 or $500 or $100,000." We cannot afford to drop that commitment. In the 15 years I have been here, I have heard it said over and over again on this floor.

So do not let anybody think from the Senator's remarks that one dime of this $157 billion is going to a stockholder or to management. It is going to the very taxpayers he is talking about. And we have to keep that commitment.

And, as fiscally conservative as this Senator is—and I certainly have a voting record to prove that—this money, as distasteful as it is, has to be appropriated, has to be done to keep the financial system of this country intact so that the people have confidence. We must not have a repeat of people jumping out of windows because they have lost their life savings. That is what this is all about. I do not want any implication to go out that that is not the case.

I see the Senator from Ohio on his feet. I yield for a comment, but I do not want to yield my right to the floor.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. GARN. Yes.

Mr. METZENBAUM. The Senator said that every dollar is going to the depositors. Is the Senator from Ohio not correct that something in the area of $40 to $50 billion of this will go to pay off the obligations that were made by Danny Wall and the Federal Home Loan Bank Board at the conclusion of last year, that they made promises but those dollars are not covered unless you get it from this bill?

Mr. GARN. Ultimately those dollars are so that the depositors in those failed institutions can be guaranteed to receive their deposits back. The simple way to have done this, Senator, and that would have been my next point because, I will be very candid about it, I resent the Senator personalizing it to one individual. I am going to talk a little bit about the history of this. I have been involved in it for 15 years. We are going to talk a little about the background and how we arrived at this point. But the simple thing would have been to go in and pay off depositors up to the $100,000 amount. It would have been much simpler to make no deals. Good heavens, how easy it is to be a critic.

I can look at those December 1988 deals in isolation and say, "Oh, those should not have been made. What a lousy deal." And most of them are. There is no doubt about that, they are.

But why? Because this miserable Congress would not give FSLIC the money, would not change the regulatory practices. Where was the House of Representatives in October 1986 when this Senator came back half cut open from a kidney transplant for my daughter. I was told by my doctor not to be here, but I stood back here in the reception room and begged the Senate Banking Committee to let the $15 billion of FSLIC recapitalization pass. I felt that this problem was that serious. It was then estimated to be a $25 billion problem.

What happened to it? DON RIEGLE helped me get it passed in the Senate. We sent it over to the House. They rejected it several times. They rejected the emergency provision, extension of title I and title II of Garn-St Germain which allowed interstate mergers and gave the regulators power, emergency powers, to handle situations like this. It expired September 30, 1986.

I said, "OK, if you will not give the Federal regulators more power and more money to handle this problem, at least extend current law." The House of Representatives did not.

So I submit that if the Senator from Ohio, the Senator from Michigan, the Senator from Utah, had been there in December 1988, faced with great frustration between a Congress who would not give the tools, House Members who begged for forebearance, without mentioning any names, who only wanted to pass $5 billion of FSLIC recap a year later. If my colleague were to sit in those conferences or to get a record of them, he would be appalled by what the House of Representatives would not do.

If there was ever an act that was irresponsible, it was October 1986, with the House of Representatives leaving session to go home for a 3-month recess, not only not giving new powers and new money, but taking away the existing powers for handling problems like this.

So, yes, they are lousy deals. But they did not have enough money to simply go in clean and quick and say "OK, every depositor gets his or her money back to $100,000. You are closed down." Boy, that is the ideal way to handle it and we would not be here today if that had been done.

But if you do not have enough money to do that, and you do not have the regulatory tools to expand your authority to close down existing institutions at an earlier time, you grasp for what you did.

If those deals had not been made, as lousy as they were, I will guarantee today we would be sitting here, in April, and I will bet there would be another $15 billion to $20 billion added to this ridiculous cost we are already talking about.

So I ask the Senator to put it into context.

I would be happy to yield to another question.

Mr. METZENBAUM. First I want to say that I recollect very well when the Senator from Utah came back after doing that magnificently wonderful job as a father for his daughter. And I think all of us share the kind of respect and concern for that which he had done. And I understand his point with respect to the House not having passed the bill in 1986.

I cannot accept the responsibility for that and neither can you.

The only point that I want to make is that the deals that were made, that $40 billion to $50 billion and maybe more than $50 billion—nobody knows for sure—besides the tax credits that they are going to get, the taxpayers in this country are subsidizing not the depositors: We are subsidizing those who made the deal. And it is reasonable to assume, and rightly so, and understandably so, that those who made the deals will make hundreds of millions of dollars extra, as you know.

One deal provided that the person who made the deal would agree to give the Government at least $30 million a year, or 30 percent of his tax savings for 10 years, but not less than $30 million a year, which means that that person expects to get at least $700 million for himself, in tax credits, paid, again, by the taxpayers.

The Washington Post did report that some deals were made in which it would have been cheaper to pay the depositors off directly rather than to have made the deal, because what we did in the deals is we guarantee the service charges, the interest, and costs of carrying certain properties that the savings and loans had, and we also agreed to give them tax credits. We also agreed to keep providing money

to service those accounts for 10 years—and I will come back to this later—but it is my understanding that we agreed to service those loans, to pay for those loans at not just what it cost them, not the cost of money in some of those loans in Texas, but 250 points, or 2.5 percentage points over the regular interest rate prevalent in the State of Texas.

So I believe that the facts are that the Senator will find in this bill considerable amount of subsidization, giveaways, to those who were able to make those deals. The Senator himself just said that they were terrible deals, a lot of them were very bad deals. But I am concerned that the American people do not realize exactly what this bill does besides what has already been done to them by the deals that were made at the last half of 1988.

I yield the floor.

Mr. GARN. I would say to the Senator, the December deals do not pay funds to old management and stockholders, as you were just saying. They do pay money to new acquirers. The reason for that is the indirect tax benefits which are a cost to the taxpayers. I obviously have not examined each and every separate deal to say that every single one of them, by my knowledge, would have been cheaper the way they were done than if the taxpayer or the depositors had simply been paid. But there is no doubt in my mind that overall it would have cost a great deal more and FSLIC simply did not have more money.

I wish FSLIC had had the money to do that: clean, simple, easy. "You are out of business." The stockholders lose, the management is gone, the depositors are made whole. That was not possible. And that is the context I was trying to place my remarks in.

But the major point I want to make, again, and again: I do not want people to think that any taxpayers' dollars are going to bail out fraud and mismanagement of the past. They are not. The important principle is these depositors know that their money is available. Even with that, we have had an outflow of deposits from the S&L's. So I think it is important that it be stated again.

I also cannot agree with the characterization of the bill. This is a tough bill, a very, very tough bill. There is one place I would agree with the Senator from Ohio—if he would listen to the one point of agreement. I did not favor extending goodwill to 25 years. And I think that is well known within the committee. I am convinced that the most important reform we can make is requiring real, tangible capital. Because when people invest their own money they are going to be more careful with it than they are with somebody else's. There is no doubt about it.

If I could have changed that to less than 25 years I would have done so. There are some offsets that we got into the bill: Early intervention, being able to close institutions down if they have not met capital requirements, and business plans. I think the chairman did a good job, while the time was extended, making some of the requirements tighter.

I would say to the Senator, too, that although he only received the bill on last Saturday, in the 15 years I have been on the Senate Banking Committee I have never known a subject that has been more fully publicly exposed, not only in the press but in extensive hearings.

(Mr. FOWLER assumed the chair.)

Mr. GARN. You mention Mr. Selby. He testified. If you would like some more ammunition for your horror stories, Joe Selby, is the regulator who told you about some of the Cadillacs and all of that. He told us, too. It is in the record. So we can add to your horror stories. I am not disputing that. They exist. No doubt about it.

Where we disagree is, I happen to think changing penalties from $10,000 a day to $1 million a day is a rather significant increase and deterrent. I also happen to think that putting $50 million more in the Department of Justice to beef up their enforcement arm, and separating FSLIC from the regulation and putting them under FDIC is important as well.

I think if you will examine this more carefully, you will find this is a tough bill. The House of Representatives' bill is not, and we must resist that. But this is a tough bill all the way along.

I want to say to the Senator as well, because he spoke about some of his amendments such as Government check cashing, lifeline accounts to all persons—he and I talked about those for years—I think he remembers last fall many of his items were included in S. 1886, the Proxmire bill which passed the Senate overwhelmingly. The House of Representatives, once again, stonewalled us and would not go along with that.

I wish the Senator would anwer this question for me because as I remember, Senator PROXMIRE and I felt very strongly once again about the fact that some of the things that were in that particular bill and were dying right at the end of the Congress, we pulled up the Andrew Wyeth coin bill, H.R. 593, and we said, "OK, S. 1886 is dead." We cannot get the overall reforms, but we would like to do some things. We would like an enforcement package that was proposed by FDIC, Federal Home Loan Bank Board, all of the regulatory agencies which allowed the agencies to obtain restitution or reimbursement from guilty parties. We felt that was important.

OK. The horror stories were there. We agree with you. How do we give it back? Give the regulators more authority. We define institution-related party to include more people involved in the affairs of a financial institution. So we wanted to broaden those who we could capture and say, "You are at fault for this." We want to permit the agencies to issue a corrective order on institution's book and records if they are in disarray; we made an agency removal order industry-wide so that a guilty party, one that had been found guilty in a savings and loan, could not transfer over and go to work for a bank.

In addition, we increased the civil penalties for certain violations of the banking laws. We toughened up the change in the Bank Control Act to make it easier to stop violations of that act. We provided that an employee of a bank cannot avoid agency sanctions by simply resigning before the agency notice is sent.

This was a tough new package of regulations the regulators wanted. We extracted that out and wanted to put it on this bill by an unanimous consent. The Senator from Ohio objected.

Now the December deals may be bad, but why did the Senator object? It is simply a regulatory package. I would have loved for these agencies to have had that power for the last 6 months, but they have not had it because the Senator from Ohio, for whatever reasons, and I am sure he had good reasons, objected to Senator PROXMIRE and I passing that package.

Mr. METZENBAUM. If the Senator form Utah will refresh my recollection, as I understand it, you were proposing a regulatory package. Did that package include the provisions I had with respect to check cashing and other consumer amendments?

Mr. GARN. No; it did not.

Mr. METZENBAUM. I think that was the reason I objected because I asked for it to be included because my friend Congressman St. Germain and his committee had not refused to move in connection with the consumer amendments I had but had actually strengthened them tremendously. The bill was killed when it got over there for other reasons but not because of my amendments.

So I think what happened was that I asked to put the same amendments on that the Senate had already passed onto that bill, if my recollection serves me well, and I am not certain that it does because I do not remember the specifics, but I would guess that if there were another banking bill coming down the pike at that particular moment that I would have insisted that I get the proconsumer amendments on that had already passed the Senate.

Mr. GARN. With all due respect, Senator, I agree and you stated accurately, the amendments you wanted to

go with the package were not added. There were objections to it. But what we were pleading for, OK, we are sorry, somebody objects. But I happen to think that because the Senator from Ohio did not get his way, it would have been important for the regulatory agencies to have these powers despite the fact you did not get your amendments. These were not Bill Proxmire's amendments; they were not JAKE GARN's. They were requested by the regulators to have tougher enforcement policies.

You can come on the floor and criticize the December deals just like I do, but I am still critical of not being able to have this package of enforcement in. I wish that we could have done your package for you. We did include most of them in S. 1886, but when we pulled it apart, it was not possible.

I expect you to fight for your issues. Do not misunderstand. I am not critical of that. You should stand up for what you believe in, but I think it would have been nice if you could have said, "OK, I understand the realities, I will let the package go through," because it is important to the very taxpayers you have been talking about today not to continue to lose money. I think that package would have saved some money.

Mr. METZENBAUM. Senator, I want to point out to you, I have been down the primrose path a number of times on the so-called consumer amendments that I have. One is the question of I see these beautiful, beautiful buildings that are set up all over for what purpose? To cash checks. And the main—well, many of those checks, the Social Security checks, Veterans' Administration checks, welfare checks, Government checks that are good checks, no question about it, and those people who are the least protected in society, those people have not been able to get any protection from the U.S. Congress.

I have not started on this just last week, last month, or last year. There were occasions when a bill came before the Senate, a banking bill. I indicated that I was prepared to offer an amendment and let it go on an up-or-down vote; let the Senate decide. I was prevailed upon by the then chairman of the Senate Banking Committee to hold off, please not to go forward, and that I was guaranteed I would have a hearing on my bill in the committee. I said not only a hearing, I want a markup. I want a chance for the Members to vote on it.

That never came to pass. There were hearings, there were discussions, the banks did not like it. We said we will give you some compromises. We have got it.

So I would say to you this. You go back and look at the record of the Banking Committee, and you tell me where in the last 6, 8, 10 years there have been consumer amendments enacted or that came out of that Banking Committee. The Banking Committee has done a good job. There is no Member of the Senate for whom I have more respect than Senator William Proxmire who has left this body. I certaintly have tremendous respect for Senator DON RIEGLE. Both of them are good friends of mine, and you I consider to be a good friend. But I have pled, I have fought, I have implored, I have entreated, I have tried time and time again to get some protection, not alone on only that consumer amendment, but other consumer amendments as well.

I will say to you now, I believe it belongs on this bill and I would hope—I wrote to the chairman about it, I wrote about a number of other issues and, if necessary, I am prepared to go forward on the floor in connection with those amendments. But I would hope that I would get the support of the Banking Committee instead of this idea, no, no amendments. What is so wonderful about that concept—no amendments?

I remember when that tax reform bill came along. Twelve-hundred-some-odd pages, and I remember when 30-some-odd Members of the Senate signed a piece of paper promising they would not support any amendment. I remember when the chairman of the Finance Committee said, "We're going to take no amendment." And I said that is not the way it is going to be, and we did change and the members of that same Finance Committee who said no amendments wound up agreeing to take amendments.

I am here this afternoon saying, I do not like your bill. I do not think it is a good bill, but I have also said that I do not intend to filibuster, but I intend to have consideration with respect to improvements in the bill. I intend to have consideration with respect to consumer amendments, and I intend to use as much time as necessary in order to let the people of this country know what a bad bill I consider this to be.

Now, having said that, I yield the floor.

Mr GARN. The Senator is correct, there is no one who has worked harder for consumer issues over the years. I certainly will stipulate and agree to that. And this Senator was willing to accept as part of the regulatory package the consumer provisions that were in S. 1886 and so was Senator Proxmire. We were not able to clear that.

My only point is we were willing to give the Senator those consumer provisions that were in S. 1886. I felt that even though the Senator lost, and I am sorry the Senator lost on that part, these regulatory changes should have gone through and I think they would have been very helpful.

I am going to answer one more question that the Senator talked about: why do this by tomorrow? With me it has nothing to do with getting out on recess, Passover or anything else. I will tell the Senator why. Because with this complex a bill I do not want the Senate of the United States lobbied during a week of recess. There are so many people out there. The purpose of all of the lobbying is to weaken this bill: to stretch out good will, to change the date of the capital requirement, it is to weaken the qualified thrift lender test which this bill tightens. I will guarantee you that they are out there in the halls; they are out there across the country; they will be in our home districts and our home States while we are there. So I do not care about the recess.

The Senator is right in that we cannot pass the bill into law until the House does theirs. But I will guarantee the Senator this will be a better bill if it is passed by tomorrow than if we go home for a week. I bet there will be 100 more weakening amendments that appear on this floor, after the lobbyists have had another week. The special interest groups that helped cause this problem will be at it all next week because they think the bill is too tough. I do not want it weakened one little bit.

Mr. METZENBAUM. I will guarantee my friend from Utah if there are any weakening amendments, they will not get adopted because I will hold the floor as necessary. This is a bad enough bill, and I said I do not intend to filibuster. If somebody comes with a weakening amendment, you have got me on board.

Mr. GARN. We would appreciate the help of the Senator this afternoon and tomorrow.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan, the chairman of the committee, Mr. RIEGLE.

Mr. RIEGLE. Mr. President, I listened with great interest to the presentation of the Senator from Ohio, my good friend, HOWARD METZENBAUM. I had to leave just briefly to go over and cast a vote in the Senate Budget Committee, so I was away for a very short period of time. But, I think I have heard all of the arguments he has made today and variations of that that he has related in other settings and to me personally. I want to say also, as he did, that we are, indeed, very good friends. We have sat beside one another on the Senate floor for many years. I recall with special fondness the fact that 10 years ago, when my wife, Lori, and I were married in Reed City, MI, it was HOWARD METZENBAUM and his wife Shirley who flew up in a small plane through very bad weather to be present on that very special day for us. So, our bonds are very deep

indeed. I have great respect for the Senator from Ohio, the work he does, the passion with which he takes the floor and supports issues, whether we always happen to agree or not.

That said, I think there is much he has said today that is, in a sense, a recounting of what we know about the worst of this problem. It is all public information. I thought it was a good recitation of the stories that have run in the national television features and national magazines, and on the front pages of newspapers across the country. These facts, troubling and as distressing as they are, are troubling to all of us. I can tell the Senator that the members of the Senate Banking Committee who worked through this legislation are as appalled at the history of this problem, the excesses that have been referred to, as anyone in the Chamber.

I can tell the Senator that this Senator and others do not stand second to the Senator from Ohio in terms of their outrage at many things that have taken place. We are determined to put a stop to it. We are determined to protect the system in the future the way it was not sufficiently protected in the past.

The Senator did in fact send a letter to me on March 22, which I have in front of me, where he raised the issues, some of which he has talked about today, particularly the Government check cashing services, the lifeline accounts which he has worked for over a period of time on other legislation, as he has just indicated, public disclosure, and also repeal of the special tax provisions and raised a concern about the FSLIC deals that were done at the end of the year.

All of these are issues that we have looked at, we have considered, and about which we have talked with the Senator's staff. I think we have incorporated in our bill some features that deal with parts of what the Senator has raised—not precisely all of them. There were some we felt we could not treat in this bill, but I think we have listened and considered those points of view.

Now, I have to say, with all due respect, when the Senator says he does not have a plan, I do not particularly expect that he would have a plan or that any individual Senator could compose a plan, because it is very difficult to do, particularly given the time pressures that all of us feel in this situation where the losses are mounting. I do not make light of the fact that the losses are mounting day by day, because the taxpayer is stuck to the extent that the losses get larger each day. I am very sensitive to wanting to get a wise and prudent package in place just as quickly as we can to put a stop to those losses.

If I can have the attention of the Senator from Ohio just for a minute——

Mr. METZENBAUM. I do not mean to be rude.

Mr. RIEGLE. I understand, but on this point, I want to particularly indicate to him that the administration's plan has been public for 8 weeks. It is no surprise. It has probably been as well publicized as anything the administration has done. It has been on the front page of every newspaper in the country; it was the lead on evening news. I think there have been few financial stories that have been as well covered in terms of detail and placement in the news and newspapers as this has been. So, the plan has been out. Our reactions to it as a committee have been out. They have been fully reported. They were reported each day, as we have come down the last 8-week period of time.

So, there are really not many surprises contained, I would say—and I will yield when I finish—in terms of the general intentions of the committee to try to work with this legislative package and produce something that we thought was sound, working off the essential elements of the Bush proposal, but making some changes, some modifications, and some strengthening.

But the Senator from Ohio or any other Senator was free to testify, if he felt the work was on the wrong track, that the administration's bill was wildly excessive or that what was being done by the committee was way off the track. He could have developed a plan just as any other Senator could develop a plan. I do not say it is easy. It is not easy. This is not the plan of a single Senator. This is a plan of all the members of the Senate Banking Committee, and it is significant that the committee reported the bill out unanimously. Not that it represents, as the Senator says, the view of any individual Senator, because by the very nature of the legislative process that does not happen any more than it would be the bill of the Senator from Ohio were he on the committee, the chairman or otherwise.

Let me tell the Senator who the members of the committee are, because I am very proud of the committee, and I think the committee has worked very hard and very thoughtfully. They have produced a good work product, and I think it ought to be seen for what it is. ALAN CRANSTON serves on the committee, has been very active in the work as have all the members, PAUL SARBANES, CHRIS DODD, ALAN DIXON, JIM SASSER, TERRY SANFORD, a former Governor; RICHARD SHELBY, BOB GRAHAM, another former Governor; TIM WIRTH, JOHN KERRY, RICHARD BRYAN, a new Member and another former Governor. On the minority side, the members were JAKE GARN, of course, who is here and has had long experience in this area, JOHN HEINZ from Pennsylvania, Senator D'AMATO, Senator GRAMM from Texas, Senator BOND from Missouri, another former Governor; Senator MACK, Senator ROTH, a former House Member, and Member here now for many years, Senator KASSEBAUM, and Senator PRESSLER.

Now, I can tell the Senator, he may have a better idea and, if he does, I am interested in it in part or in whole. But when he takes on the whole bill—and that is a large part of what I have heard today, is that the whole bill is defective—I would be very interested in looking at a package that is somehow materially different and better. I am open to that, because we did not start with a fixed view, and we did ask financial experts.

The Senator mentioned Paul Volcker. We had Paul Volcker in for an entire day. We spent probably 3 hours in extensive cross-examination with Paul Volcker and we incorporated his suggestions insofar as I can recollect standing here today from what he said about this bill. We heard from a number of other experts. We had countless people come in and ask to be heard outside the committee hearing process.

We had a number of witnesses who asked to submit testimony. All of those invited to do so are included in the committee record. That is not to say that we produced a perfect bill. When I took the floor yesterday, I indicated that I was not prepared to make that it was a perfect bill or even that it would necessarily work in precisely the manner that we would like to see it work, because we cannot know that on a matter of this complexity. It is just beyond the range of our certain knowledge to be able to do that.

But I also indicated that we intended in this committee to be far more aggressive in our oversight than this committee has been in the past. I am frank to say I am not satisfied with the record of the Congress in that particular area. We cannot do anything about that now. We can only go forward from this point.

So it is my intention to make very sure that this bill or whatever close variation of it becomes law is monitored very, very carefully to see that the provisions that are designed to have a certain effect will indeed have that effect. If they turn out to require modification or strengthening or any other change as we go down the track, I intend to insist that those things be done, and I will be back here on the floor, because that, to me, is a critical part of this job. It is not just enacting the bill, but, in effect, following through to see if it is implemented.

In a sense, it is a little awkward to stand up and tell the Senator this is a

good bill, when I have had a hand in drafting it. Let me give the Senator from Ohio a little bit of the outside comment that we have received by people like himself, who are lawyers, serious, and taking a searching look at it with a lot of work on it.

I was very pleased that the Washington Post in a major editorial just a few days ago commented that there was a different mood prevailing in the Senate Banking Committee, contrasted to the House in that instance. But its comment was that the committee's bill was tough, sharp and fair. I like that comment. I think it was an accurate comment, and I think it generally reflects opinion that we have heard from other outside experts. It does not mean the Senator from Ohio has to agree with that. But I assert to many, when he asks about whether there are persons whom we might have talked to or who might have made suggestions, that an enormous range of opinion of precisely that kind has been heard, and their views have been reflected in this bill.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. RIEGLE. Yes.

Mr. METZENBAUM. Was not that Washington Post editorial, the entire thrust of that editorial, complimentary to the Senator for insisting that this bill go on budget rather than off budget and said that Senator RIEGLE is right, and is that not the very point, that the committee did not take the position?

Mr. RIEGLE. I say to my good friend, no, it is not. He was kind to mention that other editorial.

Mr. METZENBAUM. There is a separate editorial.

Mr. RIEGLE. There are two editorials. I appreciate the Senator drawing attention to the first. They did in fact support the funding plan but there was a second and separate editorial on April 13. So this just ran a short time ago. But the fact is I think a number of people who have the same intensity of interest and concern as the Senator from Ohio has, and as the rest of us on the committee have, looked at our work product and feel it measures up very well.

I am open to an alternative, if one can be found. But I will tell the Senator this: When he gets into the heart of this issue, there are really two sides to it. There is how you pay for the problem, and the costs are inescapable. As the Senator from Utah says, this money is going to replace depositors' money that has been misinvested and lost. That is where the money goes. Make no mistake about that side of it. So, we are stuck with that.

We have imposed the largest burden on the savings and loan industry financially that we think we can without causing them to further sink beneath the waves. So we have tried to minimize the cost to the taxpayers.

But on the other side, there are the reforms, the changes in the structure, splitting off the insurance system, creating more independence in the system, at various levels, providing other kinds of safeguards, increasing the capital standards, requiring that there be an ability for the regulators not only to be strengthened in terms of who they are, but to be able to intervene and to be able to intervene rapidly and make things change, if things are not being done right.

There are many things—precisely the kind of things we have done—and, by the way, that list also was available 10 days ago. We put a summary out. It was available. I know it was available to the Senator's staff as it was to all Senators. He is exactly right. We did not have the final printed text of the bill in the form that he sees here until late on Friday. It was available, I am told, to his people on Saturday.

That is the nature of the squeeze that we have been in. That was certainly not intentional, not something we wanted, but make no mistake about it, the functional summary of the bill as you see it here was available 10 days ago, and the Bush bill itself, from which we worked, was available 8 weeks ago.

Mr. METZENBAUM. Is it not the fact the Senator considered something like 43 amendments within that last 10-day period?

Mr. RIEGLE. Yes, indeed, we did consider that many printed amendments in the committee markup process itself.

Mr. METZENBAUM. Does the Senator appreciate the fact that in a bill as complicated as this any one amendment which may be a one-line or two-line amendment can very substantially change the thrust of the bill?

Mr. RIEGLE. Absolutely.

Mr. METZENBAUM. So to expect any Member of the Senate to have studied first the administration bill, then to follow the hearings day by day while each of us are doing his or her own responsibility, then to study the bill until the 43 amendments have been brought up and disposed of, I think is a little bit unreasonable for the Senator to expect anyone to be able to.

The fact is a final product which we were asking for Thursday and Friday we did not get until 10:30 on Saturday morning. I am not blaming the Senator from Michigan. I am only asking him not to blame me when I am not willing to rush forward, bang, bang, bang, and pass this bill and hold that we have to do it before tomorrow night. I would like to ask the Senator.

Mr. RIEGLE. Let me just say because we are on my time at this point, on that particular issue the Senator from Ohio indicates that we had amendments brought up in the committee. In fact, we did. I would say for the most part of the 43 amendments, not all of the amendments were incorporated into the bill; some were, some were not. The Senator might look at them. But I am not going to make an assertion to him that is incorrect. The fact of the matter is, as he knows, there are 21 of us on that committee, including the majority whip who is sitting here. We all take our committee work just as seriously as the Senator from Ohio.

The Senator is diligent on the Judiciary Committee and in his other activities, we brought the same measure of diligence to our work and I am able to make an assertion to him that these amendments did not substantially change the bill. I think he can have some faith in what I am saying. I am not saying that would necessarily be his view. But the major issues were settled long before that, and the resolution was summarized in writing and available to the Senator and his staff, as it was to all Senators.

So I think it misstates the issue to some extent to say that suddenly he or others got blindsided on last Saturday, and there has been suddenly, in a very short period of time, a requirement to absorb everything in this bill. I can tell the Senator this: Most of what is in here has been on the front page of the business section or the front page of national newspapers for several days, and in some cases several weeks. So it is generally known. We have debated it. We have talked about it. I made a presentation in the caucus a week ago. A lot of their detail was discussed then.

So I think in fairness the issue of whether or not this whole thing just sort of popped out of nowhere on last Saturday is not accurate.

Mr. METZENBAUM. I do not say it popped out of nowhere. Let me ask a question. The Senator says it has been on the front page. Would he be good enough to recount for me what the original estimate was for the cost of this bill when the administration sent it up, and then how it went up by leaps and bounds to the point where now it is excess of $157 billion? I have some recollection it was substantially less in cost than this figure. Am I correct?

Mr. RIEGLE. Let me say to the Senator, if one goes back over the period of the last 2 or 3 years or the last several months, the estimates have changed all over the lot.

Mr. METZENBAUM. Always up.

Mr. RIEGLE. They have gone up.

Let me give the Senator the figures because he raised that question earlier, and it is a good opportunity for us to work off a common base of numbers, because the figures are every bit as large as he says. They are just as

distasteful to me to have to acknowledge as they are to him. In fact, if you take the 30-year cost, it is actually higher than the numbers that the Senator was quoting. Let me give you the figures so they will be in the RECORD.

Using the CBO assumptions about interest rates and deposit growth, and CBO budget scoring, the 3-year cost looking forward is some $83 billion. If we take the 10-year cost, the 10-year cost is estimated to be $152 billion.

Bear in mind that is dollar for dollar, not a present value discounted figure. And the 30-year cost is estimated to be $239 billion. I mean, that is enough to knock anybody off their feet, because these are extraordinary numbers. The Senator's assertions with respect to the size of this problem are exactly right. It is unprecedented. It is an enormous problem.

But that does not automatically lead to the conclusion, it seems to me, that we cannot devise a sensible adjustment to the financial system, a series of reforms to the system, and to stabilize the system now. Because, if the Senator is aware, there have been enormous withdrawals from the depository institutions over the last several months, the withdrawals continuing at the present time partly because there is uncertainty as to when this program is going to be enacted to strengthen the system and to make sure that everybody can feel confident about leaving their money in their deposit account.

There is an enormous degree of uncertainty, plus losses are running, because right now the tools are not in place to allow the liquidation of insolvent institutions.

So they are continuing to remain open, and the losses are mounting and the estimates vary. I have not heard an estimate, by the way, of less than $20 million a day.

I heard the Senator say earlier, "Well, let's take more time if time is needed."

If I was convinced that more time being spent would be a productive exercise, I would ask for it even before the Senator from Ohio.

But I think you have to accept the burden as well when we know the losses are mounting each day and are add-ons to what has already been squandered. To take time just for the sake of taking time, when we know the bill is increasing and is going to fall directly on the taxpayers, I do not view as a responsible course of action.

So I think specific amendments, whether it be a whole plan or amendments that address parts of the bill, may be made. That is why we are here, and I am happy to have them brought up at any time.

I hope, if the Senator wants to pursue it, that there will be amendments. We can hear them. We can debate them.

I think we, by the way, have addressed many of the issues that the Senator has raised. He talks about discrimination in lending. We were very sensitive to that issue. The Senator is exactly right. I am acutely sensitive to that issue, because I do not want to see discrimination in our lending patterns in this country, whether by savings and loans, banks, or anybody else. And I intend to do something about it.

That is one of the reasons why I welcome the chance to be the Banking Committee chairman.

Mr. METZENBAUM. In this bill?

Mr. RIEGLE. Yes, we take steps in this bill, appropriate steps in my view.

Mr. METZENBAUM. For a study?

Mr. RIEGLE. No. We go beyond study, I would say to the Senator.

In fact, I will just read it to the Senator. We go beyond study. We have laws in place now, as the Senator knows, that are designed to try to identify whether we have discriminatory lending practices, and to the extent that we can find them, they have to be stopped.

So, if the Senator looks in the bill, on page 542, line 17, section 1406, he will find the following:

> Not later than 60 days after the date of enactment of this Act, the Secretary of Housing and Urban Development, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Chairman of the Office of Savings Associations, shall each transmit to the Congress a report containing—
>
> (1) findings, based on a review of currently available loan acceptance and rejection statistics, on the extent of discriminatory lending practices by mortgage lenders subject to regulation or supervision by such agency; and
>
> (2) recommendations for appropriate measures to assure nondiscriminatory lending practices.
>
> (b) SCOPE OF HUD REPORT.—The Secretary of Housing and Urban Development may exclude from the report under subsection (a) any data pertaining to mortgage lenders which are approved mortgagees—

Et cetera, some standard language there.

But the fact of the matter is we are using this bill to go out and get that issue directly into hand, not only with the hard data from everybody who is in a position to collect that data and make it available to us, but together with their recommendations for any further actions that are needed, and I intend to act. When the Senator comes in here——

Mr. METZENBAUM. Why not include it in the bill?

Mr. RIEGLE. Let me just finish.

When the Senator comes in here asking us to take an action—I am undertaking to take an action. This is not the central focus, I might say, of this legislation. It is to stop the disaster in the savings and loan system.

Mr. METZENBAUM. No. But the Senator is bailing out the savings and loan institutions.

Mr. RIEGLE. No. First of all, I do not accept that description, if I may say so.

Mr. METZENBAUM. The Senator is bailing out those who are in financial——

Mr. RIEGLE. The depositors of the savings and loan system.

Mr. METZENBAUM. The Senator is going beyond the depositors. He is taking those who have investments in it. He is doing more than that. I am not willing to accept it is the depositors only. It is more.

Mr. RIEGLE. We have a difference on that point.

Mr. METZENBAUM. The Senator is now talking about a figure beyond what I talked about, $239 billion.

Mr. RIEGLE. That is the 30-year cost.

Mr. METZENBAUM. 30-year cost.

Now, discrimination in America is not a new subject, and what the Senator has there is a whole rigmarole—this fund is going to do it and that one is going to look at it and that one is going to look at it, and then they are going to send someone up here, and nothing is going to happen and the savings and loans are still going to discriminate.

Why does the Senator not put it in the bill and say any savings and loan that is participant in the FSLIC or the new name shall not be permitted to discriminate and if so, thus and thus happens?

It is simple. The Senator does not need to make it complicated.

Mr. RIEGLE. I think it is fair to say, without going and reciting the existing law, but I am happy to do that if you want to pursue this today.

I do not think they are free to do that today. I think the discrimination today is illegal and improper, and I do not think it can be done. I think they already are under requirements not to do that.

Now, the Senator can ask me, by the way, as the chairman of this committee, and it could be anybody standing here as the chairman—I have been the chairman now for a very few number of weeks—I would like to get all of these things done at once, and it might well be that a different chairman in this job could somehow get all these jobs done at the same time. I have not found that to be a practical course of action.

But I would like to appeal to the Senator, when the Senator sees in the bill that kind of language that goes directly to the point that he is raising, and he hears also from the chairman that it is not there as a matter of accident, it is there as a matter of very

specific purpose, and that we intend to follow through on it, I would think that would have some value and some meaning.

Mr. METZENBAUM. The road to hell is paved with good intentions.

Mr. RIEGLE. This is more than a good intention, I may say.

Mr. METZENBAUM. And I would like to get there more rapidly.

Let me just ask: The Senator mentioned the Washington Post editorial. And the Senator said there were as all sorts of great support coming out for this bill. Is the Senator aware of the fact that Consumers Union and Consumer Federation held a press conference yesterday and they graced both the House and the Senate bills and gave them failing grades for capital standards and other provisions in the bill? Is the Senator aware of that?

Mr. RIEGLE. Yes, I am, and, of course, now when the Senator was citing before people like Felix Rohatyn and Paul Volcker and others, and so forth, I think the Senator now is talking about a different—important—but a different vantage point in terms of the consumers groups.

I must tell the Senator this, that the consumers groups appeared before our committee. We were very interested in their input. They came in, a number of them, and testified in person, and we also received written submissions from others. But let me tell the Senators what we put in the bill on consumer provisions. I do not know if the Senator had the opportunity to read the committee report, but on page 42 it summarizes the consumer provisions and the taxpayer protections, and I just want to read them into the RECORD because the proposed bill contains several provisions intended to protect and promote consumer interests in the home mortgage credit system. Our interests run, I think, precisely along the same line in that direction, I say to the Senator from Ohio.

But point No. 1, under the heading "Consumer Directors of Federal Home Loan Banks"—

As described above, the proposed legislation requires that, in making appointments to the boards of directors of the Federal Home Loan Banks, the FHLBA reserve two positions at each bank for representatives of consumer and moderate income interests. The Committee believes that existing public interest directors on the Banks' boards have not adequately represented consumer and moderate income interests. The Committee expects this legislation to rectify that deficiency.

I might say to the Senator from Ohio that we have added that provision. That is not in the administration bill. It is something that we added, and I might say that the Senator's emphasis on consumer interests in his letter to me helped spark our interest in that area, but that is just one part of what we have done.

In terms of asset purchases by housing authority and nonprofits:

The bill enables state housing finance authorities and non-profit entities to purchase residential housing assets from the RTC. The purchasers under this title are required to invest net income attributable to the ownership of such assets in the financing, refinancing, or rehabilitation of low and moderate income housing.

The Committee intends that governmental entities as well as non-profits be able to purchase residential assets, and notes the contributions made by neighborhood-based and national non-profit entities to providing assisted housing services.

As with sales of commercial real estate assets, the Committee intends that the primary purpose of the sale of residential assets be the realization of maximum proceeds from such sales to offset the contributions made by the American taxpayer to insure savings deposits. In the view of the Committee, this is not consistent with enabling state housing finance agencies and non-profit entities to pursue opportunities presented by such sales to increase the availability of affordable housing to Americans of low and moderate income.

It continues on with the "public interest uses of RTC assets." Again, this is the third paragraph up from the bottom of page 42.

Then the report on loan discrimination, which I have just gone through, which is very specific and which requires recommendations and which we intend to act on.

Then, finally, affirmative action. And that ought to be mentioned.

The proposed legislation specifically provides that Executive Order 11478, which prohibits discrimination and requires affirmative action in employment, applies to the agencies and federally regulated corporations covered in the proposed legislation.

So, I would just say to the Senator that there are provisions in here that I think address fumdamental areas that one might call consumer issues that relate to fairness, relate to access, and how the system works.

So this legislation is not insensitive to those issues. In fact, we have responded to them directly in the fashion that I have just indicated.

Mr. EXON. Will the Senator yield for a question?

Mr. RIEGLE. Yes, I yield to the Senator from Nebraska.

Mr. EXON. I do not want to interrupt the debate that is going on now. Earlier this morning, there were appeals going out for Senators to offer amendments and I am here. I am just wondering about how long would the two Senators from Nebraska have to wait to offer a noncontroversial amendment. I do not want to interrupt.

Mr. RIEGLE. I have one other point I wanted to raise with respect to the oversight issue which the Senator from Ohio raised, because this is a particularly important issue with me. I am intently committed to the proposition that we are going to have oversight in the future that cannot fail the way the regulatory system, I think, failed in the past. So there is a long list of oversight provisions that are all through this bill, because I have insisted, along with my colleagues on the committee, that they be in there. And they are in there.

I will just read the headings in terms of the oversight as it relates to the GAO audits. I will just read that one particular paragraph now because it is an important paragraph and may relate to other issues that come up.

I say to my colleague from Nebraska that I believe we may be close to ending this conversation and I am very anxious to have his amendment brought up.

Mr. EXON. I thank my colleague.

Mr. RIEGLE. I just want to say in this area, under GAO audits, that the report itself reads:

To ensure adequate Congressional oversight over all aspects of this legislation and to safeguard the expenditures of taxpayer funds, the GAO is given comprehensive audit and access-to-records authority over all agencies, corporations, organizations and other entities which perform any functions or activities under this legislation. The GAO is given such authority with respect to, for example, the Resolution Trust Corporation, its Oversight Board, the Resolution Funding Corporation, and the FSLIC Resolution Fund.

There are a host of other things I am going to have printed in the RECORD because I want to make one other point.

The Senator talks about deals in December. The Senator and I spoke about the deals in December at the time that they were taking place, because I was as concerned and as apprehensive about what I understood to be taking place, as the Senator was. So I decided that I would act at that time. I acted by directing several written inquiries to the Federal Home Loan Bank Board about some of the pending deals that we were reading about in the newspapers and which I did not like the sound of and the look of, and so we sought to get details.

We were given a response. We were told that we could not be given those facts, even though I was, in a sense, the incoming chairman of the Banking Committee in the next Congress. We had not yet fully rolled over from the old Congress to the new. The new Congress had not been sworn in as yet.

And so at that time, as the Senator from Ohio did, I also directed an inquiry to the Secretary of the Treasury, indicating at that time that I was very concerned about the deals that were pending—this is prior to year-end—and asked that he consider his ability to exercise whatever power he might have, as the person responsible for guarding the cash drawer of the Federal Government in the executive branch of the Government, to see what might be done.

He considered it and, as he himself has since stated in public settings, he felt that he did not have the power to intervene in those situations.

I was not satisfied with the situation being left that way. As the Senator, I believe, knows, on the 30th of December, I wrote a letter, with the full knowledge of the Federal Home Loan Bank Board. I wanted them to know that what they were doing was going to be looked at in the full light of day for however long it took for that to be done.

So I sent a letter at that time to Charles Bowsher, the Comptroller General of the United States, dated December 30, in which I asked that every deal, every deal done in the month of December of 1988, be examined in full detail by the Comptroller General and that he go back and reconstruct those deals, find out if there was favoritism, find out if we paid more than we should have, and so forth, and that we were determined to set a process in motion where every last fact would be put on the table in the full light of day and we would know exactly what happened.

I will tell you that they are still working on this, because some of these deals were so complicated that the documentation on the deal would probably stand this high off the top of this desk, just in terms of the legal papers required to finalize these things. So they are not simple matters to look at.

He has given us an interim report. He reported to the committee formally on some of the work that he had done, and he himself was very disturbed about many of the deals. The Senator from Ohio, in fact, cited some of his findings in his earlier comments. Those were findings in response to my letter to him setting this inquiry in motion and were in his testimony before our committee some weeks ago.

But they are still working on this, and it may take further weeks or months before we have final reports on any or all of the deals that were done in the month of December.

Mr. METZENBAUM. Apropos to that subject, the Senator has some language in the bill about restructuring of certain bills. I pointed out to him that, as a lawyer—and I am prepared to go up against any lawyer on this issue—the way the language is written, it does not give you a smidgen of a right to do anything. You do not have any right whatsoever, because it says you cannot restructure them unless it is provided in the bill that restructuring is permitted.

Now, I had discussed with the Senator a little bit ago the possibility of his considering amending that section, and we have some language that we have in mind.

Mr. RIEGLE. I would like to see it, and we will take a look at it. But let me tell the Senator something. I fully agree that the Senator from Ohio is a great lawyer and can go up against any lawyer around. But I have to tell him this: We now have some good lawyers on the Senate Banking Committee and we are very sensitive to this issue ourselves. The Senator from Ohio is not the only one that cares about that problem. The Senator from Michigan does profoundly.

But let me tell the Senator what steps we took.

Mr. METZENBAUM. I do not care if you get the best lawyer or worst lawyer, just give me someone who reads English. It says in English that you cannot open them unless the agreement says you can open them. So it is that simple.

Mr. RIEGLE. Well, this is where the legal analysis of the Senator from Ohio that has been done thus far may not be sufficient. Let me explain why.

The restructuring of the deals, that section of the bill is found on page 328, lines 19 to 23. And I am sure the Senator has read that.

Mr. METZENBAUM. I have.

Mr. RIEGLE. Let me tell the Senator how it is going to work in practice and how it is designed to work in practice because we have gone through a lot of these deals. The bill permits the FSLIC Resolution Fund or the Resolution Trust Corporation to buy back assets that are covered by an open-ended guarantee of income which is known, as you know, as a yield maintenance clause or agreement.

The yield maintenance clause is what I objected to, and what I think the Senator from Ohio objected to. It provides, for example, a tax-free return of up to 250 basis points above the average cost of funds for a Texas thrift.

On a pretax basis, that is estimated to be roughly an 18-percent annual return; that is an awfully rich return. I believe the Senator from Ohio would agree with me and find that objectionable.

But under our bill the FSLIC Resolution Fund or the RTC can exercise this buyback on about $20 billion of the assets, and that would save the taxpayers billions of dollars each year.

Furthermore, when the RTC puts a thrift on notice that the RTC or FSLIC Resolution Fund intends to exercise the buyback provision—and this will interest the Senator because of his own business background—we believe that the thrift itself will be motivated to renegotiate other items of the deal.

Let me explain. There are very substantial economic incentives. The power of being able to come in and buy out these yield maintenance agreements should make possible the restructuring of the economics of these deals.

It is our view that a thrift would be hard pressed to reinvest any substantial amount of money and get anything close to the guaranteed 18-percent annual return noted earlier.

Let me just finish.

Mr. METZENBAUM. Why is the Senator paying them 18 percent?

Mr. RIEGLE. We should not have been. That was part of what we were objecting to at the time.

But let me just finish and say it was our view and the view of the lawyers that worked with us to craft this provision, that this gives us the ability to go in and create not only a way to deal directly with the yield maintenance arrangements that many of us find objectionable and too expensive but also, provides the leverage to force a renegotiation of the whole package.

It is the view of this Senator, reinforced by the good lawyers that we have had available to us, that most of the deals that are out there will not be able to withstand that change. And the principals involved in those deals are going to have to sit down with the new players that are going to run the show in the Federal Government and renegotiate, in the view of this Senator, the whole package.

That is another way of getting at the whole that the Senator wishes to get to.

Mr. METZENBAUM. I respectfully say at this point that the Senator is guilty of wishful thinking.

The Senator's lawyers may think that. But I want to tell the Senator, I put time in with the lawyers who represented these buyers. Those lawyers used teams, they were experienced, they were out of the field. I am saying that the Senator has another provision about having the right to restructure and it is that provision—I am not sure which page it is on but we can find it easily enough—where the Senator says we have the right to restructure and then say "If the agreement says, we can restructure."

I am frank to say the Senator might as well throw the paragraph out because the Senator does not need the paragraph. If the agreement provides that we can restructure, then why is it needed in the legislation?

The reason to put it in the legislation is because the Senator is going to provide for restructuring that is already permitted.

Mr. RIEGLE. The answer to that is, that our intent is to direct them to do it.

Mr. METZENBAUM. What difference does that make?

Mr. RIEGLE. It makes all the difference in the world, because it is not something they can think about and not do. It is something they are directed to do.

Mr. METZENBAUM. But to direct somebody to do something? If I repre-

sent the savings and loan, I am going to say to the Senator: No way, it is not in the agreement.

Mr. RIEGLE. In most cases it is in the agreement. We are talking about——

Mr. METZENBAUM. I would like some confirmation of that representation. I would like some confirmation of that. I do not agree with that. I do not think that is right.

If the Senator will check with his staff? My staff tells me it is not in most of the agreements.

Mr. RIEGLE. The information that we have on that—and I want to put it in the RECORD now, and we will undertake to confirm it, but I am told that it is accurate—of the several dozen deals that were done, approximately two do not have that provision. The remaining deals that GAO looked at, I am told, do have that provision.

Mr. METZENBAUM. Those are deals that are limited to 10 percent buyback in any given year; is that not correct?

We have not been able to read all the agreements. We know we did read one——

Mr. RIEGLE. Let me say to the Senator. Obviously, there are differences as to what in fact is enabled under the bill as we have written it. And we ought to let our respective legal teams talk to one another on that issue. Maybe we can settle it.

If we cannot, the Senator, who is an expert at offering amendments on the floor, knows precisely how to do that. He could probably do that right now on the back of an envelope. That may or may not be necessary. I invite him to do it, if he thinks it is necessary.

But what I want my colleague to understand is that this is not a new issue to us. It is not an issue that we cared any less about than does the Senator from Ohio. This is one we have been working on for a long time and I am determined, just as the Senator is, to set that issue right. We think we have a mechanism to do it. The Senator from Ohio may disagree. He may think it needs strengthening and this is the process by which to go about trying to do that.

But I would want the Senator to understand that our view is as keen as his on this, in wanting to bring that problem into the full light of day and find a practical way to solve it.

Mr. METZENBAUM. We will try to come up with some ideas, to see whether or not the Senator from Michigan is prepared to accept them.

Mr. RIEGLE. Let me just indicate, I know the Senator from Nebraska may be in the cloakroom, because he has been waiting for some time to bring up an amendment that we are in a position to accept, because we have worked it out.

And I know the Senator from Pennsylvania is on the floor, too.

Having just a moment ago made that commitment to the Senator from Nebraska, I would like to be able to honor it, and I think it can be done very quickly, if he is present at this time.

If the Senator from Pennsylvania will indulge me, I would like to try to accommodate the Senator from Nebraska.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. (Mr. CONRAD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I rise in support of the pending legislation addressing the savings and loan crisis. Indeed, I wish to express my sincere appreciation and admiration for the work and the leadership of the chairman of the Banking Committee, my friend Senator RIEGLE, in crafting this significant bill.

This legislation is vitally important. It sends a signal to the Nation that its savers' deposits are safe in savings and loans, as well as banks, and that its financial system is on a sound footing.

This legislation is not a bailout of the savings and loan industry. Rather, it is a rescue of depositors—a guarantee of continued public trust and confidence in the foundation of our economy.

But Mr. President, this is unpleasant legislation. It is the culmination of many, many diverse occurrences—some economic, some that were governmental, and some that were very human in nature.

Most of all this problem can be traced back to the high inflation and interest rates that beset this country at the end of the last decade. Those economic conditions—double digit inflation and a prime rate of over 20 percent—created a situation in which the savings and loans could not survive.

S&L's were used to taking in deposits at 5 percent and lending them out at 8 percent period. That was what they had done for 40 years.

Over those 40 years they were a safe repository for the Nation's savers and they were the driving force in housing finance.

But when interest rates went through the roof and the money market funds appeared on the scene, the S&Ls could not compete. People took their money out of S&Ls.

Mr. President, in talking about the S&L crisis, my constituents have a typical question: Senator, where did the money go? My first answer always is: It followed the high rates.

The response of government to the crisis, unfortunately and unwittingly, also contributed to the problem. First, we deregulated the interest rates that the S&L's could pay on their deposits so that they could be competitive with the money funds. That seemed to make sense and it was good for consumers.

Subsequently, the S&L's had money, but they had to pay more for it than they were earning on their 8 percent mortgages. They had a so-called negative spread problem—they were paying out more than they were taking in.

So we revisited the issue and decided that the S&L's needed to be deregulated on the investment side. They needed to be able to make different investments, other than mortgages. Investments that they could make more money on.

The trouble was all the S&L's knew how to do was make mortgages. Thus, the new powers meant more losses. Quite frankly, deregulation, particularly that permitted by State governments, was an invitation to fast buck artists and speculators to buy S&L's.

This was perhaps the biggest mistake, Mr. President. The Reagan administration in all its zeal to lessen government's role in the economy reduced regulation of the S&L's.

At the same time that the Reagan administration pushed for broad and expansive new powers for S&L's, it cut back on their supervision and examination. The Reagan administration invited the fox into the chicken coop and closed the door.

Unfortunately, Mr. President, the S&L bailout is yet another example of the cost of cutting back on government regulation. It is one area were government would have saved money by taking a more active role.

Investigations of the multitude of S&L's that ran into trouble indicate a shocking pattern of greed and lawless behavior not seen since the bank scandals of the late 1920's.

And it angers me to say Mr. President, that just about all of these people are still walking around. The Justice Department has been very slow in pursuing these people that were so quick to abuse the public trust.

Mr. President, with this legislation this is all going to change. This bill provides the money to back deposits, it greatly strengthens the regulatory system so that this cannot happen again, and it provides the tools to chase the fast buck operators from the S&L business to the jails.

Besides providing the necessary funds, I think one of the most important things that this legislation does is impose tough new capital standards on the S&L's.

Capital basically is the amount of money that the owner of a savings and loan has at risk. Obviously, the more

capital he has, the more he personally has to lose from a risky investment.

Most importantly, capital is the buffer between risky investments and the taxpayers. An S&L can afford to take some hits if it has enough capital. But if it doesn't have enough capital, the losses are all the taxpayers'.

Mr. President, why should the taxpayers stand behind institutions into which private investors are unwilling to put their own money?

Another important and sweeping provision of this legislation is the restructuring of the Federal Home Loan Bank Board. Under the bill, the regulator of the savings and loan industry will no longer be an independent agency. Rather, it will be placed under the Treasury Department like the regulator of national banks.

For too long the bank board has been too beholden to the S&L industry that it is supposed to be regulating. Incorporation in the Treasury Department will change all that.

However, the regional Federal Home Loan Banks will remain independent. And thereby could serve as an important credit source for housing.

Mr. President, this is one area of the bill that I feel is deficient. The Federal Home Loan Banks are a quasi-governmental entity with an enormous capital base and the ability to borrow massive sums at preferred interest rates.

Yet, a 1988 study by the General Accounting Office could not identify any significant way in which this massive funding system was serving housing credit needs. Indeed, the Federal Home Loan Banks do lend money to S&L's to fund any kind of investment or lending activity.

I believe that if we are to maintain the Federal Home Loan Banks as an independent financing system, then they should be helping the Nation meet its burgeoning housing problem.

Much has been made of the need to maintain the S&L's as a source for housing finance. Yet the trend is clearly that S&L's are playing less and less of a role.

Ten years ago S&L's held in their portfolios 44.6 percent of all the Nation's residential mortgages. Today they hold only 26 percent. Ten years ago S&L's originated 53 percent of all mortgages. Today they originate 38 percent.

Indeed, in my home State of Tennessee, S&L's are originating less than a third of all mortgages. Banks and mortgage bankers are serving the major portion of the need.

So if the S&L's are to maintain the privilege of having this preferred governmental source of credit—the Federal Home Loan Banks—then the Federal Home Loan Banks should assist housing directly.

We have before us a massive bailout. Over $100 billion will be spent to rescue depositors.

Much of this is cloaked in the mantle of housing. Yet when you pierce the veil, there is precious little in this bill that will arrest the Nation's growing housing crisis.

I believe that a reorientation of the Federal Home Loan Banks is one way that something positive can come from this legislation, Mr. President. I intend to continue to work on this aspect of the bill as we prepare for conference.

Lastly, Mr. President, I would like to address the budget issues posed by this legislation. As chairman of the budget committee, I find the budget treatment chosen by the administration for its S&L's rescue problematic. I have pointed this out on numerous occasions.

Yet, for their own reasons—and I do respect their reasons—the administration has chosen to maintain the off-budget treatment of its financing package.

The administration argues that this is an industry financed bailout. And that this justifies not including the financing in the Federal budget.

As part of the budget summit negotiations, my colleague in the House of Representatives, Chairman PANETTA, and I attempted to alter the budget treatment to one that we considered up front, more honest, and potentially cheaper. We were unsuccessful.

The Banking Committee, on the other hand, came up with a plan that had some elements on-budget, some off-budget, but involved blowing up the deficit to an historic level in 1989.

In the Banking Committee, with sincere respect for my colleagues who were advancing this proposal, I chose not to support it. I found the idea of back door spending by adding $50 billion to this year's Federal budget deficit offensive to budget principles and worrisome.

I agree with those who say that sending the deficit well over the $200 billion mark this year for this bailout could raise concerns internationally and at home about our commitment to deficit reduction.

As the Treasury Secretary points out, it will only require a 2-basis-point (two one-hundredths of 1 percent) increase in interest rates, for the purported savings from the so-called on-budget plan to be wiped out.

Most importantly, at the rate the FSLIC is losing money, we are using up the purported annual savings from the on-budget plan every 5 days. I repeat: every 5 days.

Mr. President, from a budget and a taxpayer perspective, this absolutely is not worth a partisan wrangle, particularly when the savings ventured to be gained are so illusory.

Mr. President, I yield the floor.

Mr. HEINZ. Mr. President, the Senate is about to launch one of the most extensive and expensive rescue missions in our Nation's history. Over the last decade, our country's savings and loan industry has been ravaged by harsh economic forces, plundered by criminals, and crippled by lax regulation and supervision. I am proud to say that the thrift institutions in my State of Pennsylvaina have acted honestly and prudently. They have weathered these adversities. Pennsylvania's savings and loans are healthy. However, other States, particularly in the Southwest, are strewn with hundreds of dead and dying financial institutions that continue to hemorrhage millions of dollars of federally insured deposits.

It is time, Mr. President, to bury the dead, to heal the wounded, to protect the healthy and to rescue the millions of depositors whose savings are backed by the full faith and credit of the United States.

From the start of the 101st Congress, Mr. President, both the Bush administration and the Congress have worked tirelessly and continuously in an effort to forge a solution to the savings and loan crisis. Within just a few weeks of taking office, President Bush outlined a comprehensive plan to fund this rescue effort and to reform the savings and loan industry, as well as our Federal Deposit Insurance System.

The Senate Banking Committee, under the leadership of our new chairman, Senator RIEGLE of Michigan, in a spirit of bipartisanship set out on an ambitious and rigorous course of hearings to explore every facet of this problem. My colleagues and I on the Banking Committee built upon the work of the President and the chairman to develop the legislative blueprint now before us that we believe most effectively deals with the problems of the past and provides the potential for a much better future.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 has the unanimous support of the Senate Banking Committee. It has my support as a member of that committee because it accomplishes four critical goals.

First and foremost, Congress will live up to its pledge to place the full faith and credit of the United States behind federally insured deposits. Two years ago, I sponsored, and this body supported, an amendment to the Competitive Equality Banking Act that assured Americans that Congress would keep its promise to protect federally insured deposits. That legislation was passed unanimously by this body. Since that time, no depositor has ever lost a single cent and, under this bill, no depositor will ever lose a single cent placed in an insured account.

The stability of our financial system depends on the confidence of those who entrust their savings to the safety of insured deposits. It is my view that Americans must never be forced to place their money in a mattress in order to get a good night's sleep.

Second, this bill will help to restore the savings and loan industry to health. The savings and loan industry and the taxpayer will provide $126 billion over the next 10 years to close the brain-dead institutions that must gamble with insured deposits to survive and which cheat the rest of the industry by bidding up the cost of deposits. This bill also prescribes a tough rehabilitation plan for the remainder of the industry that includes higher capital standards, tough restrictions on risky activities and constant and thorough examinations.

Third, the Federal Deposit Insurance Corporation will be given the weapons it needs to protect both depositors and taxpayers from any loss. While deposit insurance is surely good public policy, it is also an insurance policy. Congress, therefore, must give our deposit insurance agency the flexibility to change premiums when economic conditions or other risks change. Placing the full faith and credit of the United States behind insurance deposits was intended to keep healthy insurance institutions open. However, we must make certain that the industry's premiums, not taxpayers' funds, are used when sick institutions get closed.

Fourth and finally, this bill will strengthen our civil and criminal laws to crack down hard on those who treat an insured institution like a personal piggybank. The enforcement provisions contained in this bill will give our law enforcement authorities new, tougher laws to put those engaged in fraud behind bars. This bill also contains measures that I sponsored to facilitate efforts by the FDIC, with the aid of the legal profession, to go after and to get back every possible dollar taken by those responsible for the mismanagement of failed savings and loans. The taxpayers should not be asked to pay unless those responsible for these horrendous losses are also made to pay.

Mr. President, the Congress and the regulators have a lot of work to do. We need to act promptly to stem further losses by cleaning up the insolvent thrifts in the Southwest; to act fairly in distributing the cost of this $100 billion fix to this crisis by balancing the industry's financial burden against the need to keep its financial future secure; to act responsibly to minimize costs through intelligent asset management and by using every weapon at our disposal to recover stolen moneys; and to act wisely to enact reforms needed to prevent this kind of crisis from ever happening again.

Mr. President, we will know that we have turned the corner on this crisis when the public's confidence in the deposit insurance system has been restored; when the criminals who caused these losses are in jail and the money taken has been repaid; and when the entire thrift industry is back at work doing what it does best—making the dream of home ownership a reality for millions of Americans.

I hope, Mr. President, that at the conclusion of the debate on this bill and the amendments thereto that our colleagues will help put an end to this crisis by supporting S. 774.

I say that because I believe millions of depositors are looking to Congress to keep its pledge of full faith and credit. We cannot, and will not, break this long-standing and very important promise.

Mr. President, I said earlier that the Banking Committee did an extremely fine and commendable job on this legislation. But I believe there is one area where some improvement still could be made, and that is in strengthening the portion of this bill that expands the Racketeer Influenced and Corrupt Organizations Act—we know it as RICO. On my view RICO should include all the crimes that are now on the books to fight fraud against financial institutions and the Federal deposit insurance system. RICO, as most of our colleagues know, provides broad criminal and civil authority to combat and prosecute those who engage in the pattern of racketeering activity. RICO sets out a list of those crimes that, when repeatedly violated, constitute racketeering activity.

The amendment that I will send to the desk will enlarge the list of bank fraud crimes covered under RICO. I stress that they are existing crimes. They are on the books today. Those crimes would include all 10 Federal laws which involve fraud against financial institutions or the FDIC.

The amendment does not create any new Federal crimes. It simply makes existing Federal criminal laws relating to bank fraud subject to the tougher civil and criminal provisions contained in RICO. At the present time, our bill contains 3 of the 10 Federal criminal provisions that I refer to. It contains 18 U.S.C. 656, 657, and 1344, but it does not incorporate seven other statutes; namely, 18 U.S.C. 215, 1004, 1005, 1006, 1007, 1008, and 1014.

Mr. President, I ask unanimous consent that a description of those statutes be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FINANCIAL INSTITUTIONS RACKETEERING ENFORCEMENT ACT

EXPLANATION OF THE AMENDMENT

This amendment expands the Racketeer Influenced and Corrupt Organizations Act (RICO) to include crimes against financial institutions and the federal deposit insurance system. RICO provides broad criminal and civil authority to combat and prosecute those who engage in a pattern of racketeering activity. RICO sets out a list of those crimes that, when repeatedly violated, constitute racketeering activity.

This amendment would enlarge the list of crimes covered under RICO to include fraud against financial institutions and the federal deposit insurance system. The amendment does not create any new federal crimes. It simply makes existing federal criminal laws relating to bank fraud subject to the tougher civil and criminal provisions contained in RICO.

The following ten federal criminal provisions would be added to the present list of crimes under RICO.

(1) Giving or soliciting a bribe to obtain a loan from a federally insured institution (18 U.S.C. 215);

(2) Theft, embezzlement, or misapplication of funds by a bank officer or employee (18 U.S.C. 656);

(3) Theft, embezzlement, or misapplication of funds by a savings and loan or credit union officer or employee (18 U.S.C. 657);

(4) False certification of checks by a bank officer or employee (18 U.S.C. 1004);

(5) False entries, reports or statements by a bank officer or employee with intent to defraud a bank or deceive a bank regulator (18 U.S.C. 1005);

(6) False entries, reports or statements by savings and loan or credit union officer or employee with intent to defraud a savings and loan or credit union or deceive a savings and loan or credit union regulator (18 U.S.C. 1006);

(7) False statements to defraud the FDIC (18 U.S.C. 1007);

(8) False statements to defraud the FSLIC (18 U.S.C. 1008);

(9) False statements or reports to defraud a federally insured institution (18 U.S.C. 1014); and

(10) Any scheme or artifice to defraud a federally chartered or federally insured institution (18 U.S.C. 1344).

Mr. HEINZ. Mr. President, I think it is really quite a simple amendment. I offer it simply to make sure that we have RICO's weapon to combat the kind of fraud that has occurred to make sure it does not occur again in the future and to ensure that taxpayers can go to bed with the recognition that the crime wave that has swept through our financial institutions will be stopped and, to the extent it has taken place, will be fully prosecuted with the strongest possible provisions of law. It is my view it is our responsibility to strengthen our laws to help put an end to bank fraud.

AMENDMENT NO. 51

(Purpose: To amend RICO to include additional predicate offenses relating to bank and financial fraud)

Mr. HEINZ. Mr. President, I send my amendment to the desk and ask for its immediate consideration. I ask the managers if they can support it as well.

The PRESIDING OFFICER. The legislative clerk read as follows:

The Senator from Pennsylvania [Mr HEINZ] proposes an amendment numbered 51.

Mr. HEINZ. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 502, line 8, strike "and".

On page 502, line 10, strike the period and insert a semicolon.

On page 502, between lines 10 and 11, insert the following:

(3) by inserting after "Section 201 (relating to bribery)," the following: "section 215 (relating to receipt of commissions or gifts for approving loans),"; and

(4) by inserting after "section 894 (relating to extortionate credit transactions)," the following: "sections 1004, 1005, 1006, 1007, and 1014 (relating to fraud and false statements),".

Mr. RIEGLE. Mr. President, let me say, first of all, how much I appreciate the hard work and the splendid contribution that the Senator from Pennsylvania has made and all of the effort leading up to crafting this bill—the hearings, and the meetings we have held. He has been an essential part of the work, and I am very grateful for the time and the effort and the thought that he has contributed to this joint effort.

This is a good amendment. We were concerned for a while that the Judiciary Committee might have a problem with it. We are told they do not have a problem with it. So, I am prepared to accept the amendment. I have spoken to Senator GARN and that is his view.

So, on the strength of that, I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 51) was agreed to.

Mr. HEINZ. Mr. President, I move to consider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HEINZ. Mr. President, I thank the distinguished chairman of the committee, Senator RIEGLE, and the ranking member, Senator GARN, for their excellent job on this bill. I certainly do appreciate their support and acceptance of this amendment. I do think it helps the bill. As the Attorney General testified, some 25 to 30 percent of the savings and loan failures were due to fraud and insider abuse. I thank the committee for their support of this amendment which will materially toughen our determination to put all of those who would defraud these institutions and the taxpayers where they belong—in jail.

AMENDMENT 52

(Purpose: To make the financing provisions on budget, and for other purposes)

Mr. GRAHAM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 52.

Mr. GRAHAM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 351, line 20, strike the semicolon and "or" and insert a period.

On page 351, beginning with line 21, strike all through line 22.

On page 364, line 8, after the period, insert the following: "The Secretary of the Treasury shall purchase any obligation issued by the Funding Corporation under this paragraph, and for such purpose, is authorized to use the proceeds of obligations issued under chapter 31 of title 31, United States Code."

On page 367, line 15, strike "or".

On page 367, line 18, strike the end period and insert "; or".

On page 367, between lines 18 and 19, insert the following new subparagraph:

"(C) purchase direct obligations of the United States."

Beginning with page 367, line 19, strike all through page 369, line 21.

On page 371, line 25, strike "Except as provided in subsection (f)(7)(B), the" and insert "The".

Beginning with page 375, line 22, strike all through page 376, line 9, and redesignate paragraph (5) on page 376 as paragraph (4).

On page 381, between lines 14 and 15, insert the following new sections:

SEC. 506. BUDGETARY TREATMENT.

For the purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, to the extent that this subtitle has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, such transfer is a necessary (but secondary) result of a significant policy change.

SEC. 507. ISSUANCE OF BONDS TO THE RESOLUTION FUNDING CORPORATION.

(a) IN GENERAL.—Subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 3114. Issuance of bonds to the Resolution Funding Corporation

"The Secretary of the Treasury may—

"(1) issue bonds of the United States Government to the Resolution Funding Corporation established by section 21B of the Federal Home Loan Bank Act, and

"(2) buy, redeem, and make refunds of such bonds under section 3111 of this title.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"3114. Issuance of bonds to the Resolution Funding Corporation.'.

(2) Section 3108 of title 31, United States Code, is amended by striking out "and 3105-3107" and inserting in lieu thereof ", 3105-3107, and 3114".

(3) Subsection (a) of section 3121 of title 31, United States Code, is amended by inserting "and 3114" after "3102-3104".

Mr. GRAHAM. Mr. President, the subject of the amendment which I have just offered was discussed at some length yesterday and I will attempt to avoid being repetitious. It is essentially the amendment which had been developed by the chairman of our committee to provide an alternative means of financing the cost of resolving the thrift crisis.

I have, Mr. President, charts that indicate what this cost is going to be over the 30 years that we will be paying for it. The first chart is the administration's plan with their method of financing. That plan, which calls for paying the cost of those thrift resolutions already outstanding and issuing an additional $50 billion of bonds for those resolutions that are contemplated in the future, would have a cost over the next 30 years, which is the time period in which the bonds would be paid off, of $12 billion to the Federal Home Loan Bank Board, $51 billion to the S&L industry, primarily through assessments paid in the S&L insurance fund, and $176 billion to the American taxpayer.

The second cluster of bars indicates what the cost will be on some slightly different economic assumptions, the economic assumptions of the Congressional Budget Office. Those assumptions are at variance with the administration's in several areas. I would like to mention primarily one, that is, how much will the industry be able to contribute to the cost of this program. The administration has assumed that there will be a 7.2-percent annual growth in the deposits of institutions covered by the savings and loan insurance fund, and applying the annual premium against that expanded deposit base they arrived at their number of $51 billion.

The Congressional Budget Office took a more conservative estimate of the growth in the industry. Their estimate varies from year to year. For instance, in 1989, instead of being 7.2 percent, they estimated it to be 2 percent. I frankly think that 2 percent is optimistic, given the fact that during the first quarter of 1989 there actually has been a net reduction in deposits rather than any growth at all.

But taking the CBO's assumptions, they estimate that the S&L industry will be able to contribute $46 billion rather than the $51 billion assumed in the administration's plan.

The major difference is in the fact that the CBO has somewhat higher estimates of what interest rates will be over the next 30 years. The combination of that lessened ability of the industry plus the higher cost of financing this transaction over 30 years re-

sults in the CBO's estimate that the cost to the American taxpayer will be $216 billion. I repeat that number, Mr. President, $216 billion over the next 30 years is the Congressional Budget Office estimate of cost of this resolution.

There are many people including myself who feel that this plan is an understatement of the problem, that in fact rather than costing $50 billion to meet the future demands of this industry, the figure is likely to be substantially more than that. I submit that most of the thoughtful people who have testified before the committee were more likely to estimate higher rather than the administration's $50 billion number as the ultimate cost of resolving this crisis.

No one can give you a tablet of stone with the exact number engraved upon it but just to suggest what a modification of the base cost of this plan would do, if instead of costing $50 billion it were 50 percent more, thus costing $75 billion to resolve this crisis over the next 30 years, the effect of that is to further drive down the contribution of the S&L industry since the assumption is there is going to be less of the S&L industry available to pay assessments. And so from the $51 billion in the administration's plan that is reduced down to $42 billion, and to balloon the cost to the American taxpayer from the administration's $176 billion, as horrendous as that is, to the estimate that if this plan eventually costs $75 billion, it will cost the American taxpayer over the next 30 years $311 billion—$311 billion is the 30-year estimated cost of a $75 billion resolution of the thrift crisis.

Mr. President, I bring those numbers to your attention to then move to the subject of the amendment. We made the decision already that although our generation, particularly the last 10 years, largely caused this problem, presided over this problem, allowed by acquiescence this problem to proceed forward and, to an extent, benefited by the problem, we were the ones who cut the cake at the party. We are the generation that has created this horrendous, unprecedented, national economic crisis. We have made the decision, however, that we are not going to pay for it. We have read our lips and our lips say, "Children, grandchildren, you are going to have the benefit of paying for our party." So we are going to shift the cost of this $176 billion, $216 billion, $311 billion party to our children and grandchildren.

Do we owe them anything for this present that we are about to transfer to them? I think we owe them at least two things. One is we owe them basic honesty. We ought to state up front what we are doing so that when they read the will, the legacy that we are going to be giving them, it will not be obscured, obfuscated, difficult to understand. And second, we ought to do it at the lowest cost that we can to our children and grandchildren. There are not a lot of options available, Mr. President, in order to try to accomplish those two objectives of honesty and lowest cost.

The chairman spent a good part of the many days, weeks, and now months of hearings attempting to discern what would be the financing program that would meet those standards of honesty and lowest cost. I believe that he found the best alternative available. That alternative is to say we are going to put this transaction on the books. We are not going to try to hide it in off-budget financing methods. And we are going to finance it directly through the Treasury, not through a back door methodology.

The benefit that we get for those two is not only the moral uplift of having been slightly more candid about the scale of the problem and who is going to pay for it, but also we actually save some money. The administration in its work papers suggests that there will be a savings of approximately a quarter of 1 percent by financing this directly through the Treasury as opposed to doing it through an off-budget secondary source.

A quarter of 1 percent sounds almost like that old Broadway play, "Seven cents an hour, give it to me every hour, every day, 40 hours every week." It begins to mount up. Well, when you add a quarter of 1 percent to a problem of this scale it starts to mount up, too.

Mr. President, this chart indicates how much that quarter of 1 percent means. It does not mean too much in the first year as we are getting started, but by the time you get up just to 1992 or 1993, that quarter of 1 percent amounts to $150 million—$150 million is the difference of financing this on budget or off budget. When you add all of those $150 million up over the next 30 years, you are talking about a savings of approximately $4.5 billion. That is the difference that little quarter of 1 percent makes on this program.

This is predicated on the $50 billion total program. If you were to accept what I think is likely to be closer to reality, a $75 billion cost of resolution, you would add another 50 percent to each of those numbers to get some sense of what the potential savings are.

In this town of big numbers, some might say, well, honesty is not worth $150 million a year. For $150 million a year, let us do it off budget. Let us save some of the pain. Let us avoid having to face now the implications of our actions.

Well, we are going to be back here in a few days debating the budget. We are likely to be here a year from a few days debating the budget for the next fiscal year and on into the future. There are going to be some people asking, trying to secure the support of this Senate, this Congress, and the administration for projects of $150 million. Let me just mention what some of those are going to be in the current budget that will be presented to this Senate.

One of them was the subject of the amendment that we just adopted from Senator HEINZ: fraud. We are outraged at the fact that a substantial amount of this problem that can end up costing our children and grandchildren somewhat between $176 to $311 billion is the result of fraud. We want to find out who did it and bring them to account. So we proposed in this bill to spend $50 million to bring those who have trespassed against us to account. We are going to spend three times that every year for 30 years in order to keep off budget what the real cost of this party was.

Many of us, including, I know, the President, are very concerned about the drug issue and what it is doing to our society. The President has recommended some items based on the 1988 drug bill to wage this war against drugs. He has recommended that we spend $91.4 million at the Federal Bureau of Investigation for investigators and increased arrest powers relative to drug offenses; $91.4 million is what the President feels we commit of this Nation's resources to that aspect of the war on drugs.

Mr. President, we are proposing to spend $150 million every year for 30 years in order to disguise the cost of the thrift crisis.

The President has recommended that we spend $113 million for additional U.S. attorneys so that we can prosecute those people who violate our drug laws. We are now considering whether we are going to spend $150 million every year for 30 years in order to avoid having to honestly face the cost of the party that we have just had for the last decade through our thrift industry.

For one final example, the President has recommended that we spend $115 million through the Department of State for international narcotics control so that we can do a better job in the source countries at eradicating drugs, stop it at the point of production before it gets into the United States—$115 million is what we think the Nation should spend on that effort. Subject to this amendment is whether we should spend $150 million every year for the next 30 years in order to disguise what we have just done to ourselves over the last 10 years with the thrift crisis.

Mr. President, I think that is the fundamental issue of both honesty, and fiscal prudence.

Mr. President, this will probably be the only opportunity that we will have as we debate this savings and loan resolution legislation to cast a vote that will indicate that we want to resolve this crisis at the lowest cost, and at the greatest degree of honesty to those to whom we are eventually going to be accountable.

There is an issue that the public has, only I suggest begun to awaken to. When the public understands what they are going to be spending to resolve this crisis, when the public understands the depth of the public deception, deceit, acquiescence that has allowed this to fester, we are the ones who are going to be held to account.

I want to be able to say when I am brought to account that at least when I had the opportunity to ask the American people today, 10 years from now, 20 years from now, 30 years from now as they pay for this resolution that at least I voted for a proposition that would make that burden as limited as possible.

So, Mr. President, I urge the adoption of this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. RIEGLE. Mr. President, Senator GARN obviously has a very strong feeling on this and wants to be heard. He had to leave to attend a meeting briefly and will be back. He wanted me to so indicate. I know others also will want to be heard on it.

I want to recap, if I may, some of the facts that led to the development of this alternative which the Senator from Florida has now brought to the Senate floor. When we started out to develop legislation to overhaul, strengthen, and refinance the Federal Home Loan Bank System, the savings and loan regulatory structures, and the deposit insurance fund, it became clear to us at the outset that one of the main objectives of our work should be to try to keep the cost down to the lowest possible level that we could. We recognized early that the taxpayers, because of the Federal deposit guarantees, were going to have to pay a very substantial part of this bill. We wanted to see if there was any way in which we could reduce the cost, so the taxpayers would pay less and not more.

After some considerable period of time we hit upon this method of using the direct Treasury financing as a way to lower the financing cost, because direct Treasury instruments sell in the market at lower interest rates than the securities of any quasi-government entity do, and we saw an opportunity to save the differential in the financing cost.

We thought for a while as to how we would do it: whether to seek a waiver from Gramm-Rudman, which the Gramm-Rudman law allows, in order for us to finance directly from the Treasury—and realize savings, spread over a 30-year period, of some $4.5 billion—or to charge all of the costs off in the budget year of fiscal 1989. We are now at a point on the calendar where that would be another way to accomplish the same effect, namely, to handle the accounting absorption of that charge without disrupting the Gramm-Rudman-Hollings targets.

We decided upon the second approach, because that seemed to be the one that dovetailed most neatly with the administration's financing plan. In other words, we could use the direct Treasury financing, save the $150 million a year or $4.5 billion over 30 years, and otherwise synchronize the funding method into the resolution scheme that the administration had developed.

As that idea was looked at and circulated, it picked up a lot of support.

It picked up a very strong lead editorial in the New York Times, and a strong lead editorial in the Washington Post. I am quite proud of the fact that the Wall Street Journal also in looking at the Treasury plan and our plan decided that they liked our plan better. They were not in love with it. They had some reservations about it. But they thought on balance it was the better plan.

Outside analysts looking at our plan also supported our point of view.

Coming back the other way, however, the Treasury Secretary, a former colleague, a person whom we all respect and I particularly respect, felt very strongly that the financing alternative that we were recommending was one that should not be done. He felt so strongly about it that he was prepared to recommend that the bill be vetoed, if it used this alternative funding mechanism. He said that repeatedly. He said it to me personally on more than one occasion. I believe, based on those conversations, that that is not an idle threat. I believe he feels that strongly about it. That is his best professional judgment.

I happen not to agree with that judgment, but that does not in any way diminish my respect for him or my respect for his differing point of view on the issue. Clearly, he carries the responsibility as Treasury Secretary for our country to try to make policy decisions in that area.

On the strength of that, we came into the committee, and I was prepared to recognize and accept the difference of opinion that we have and to allow the matter to be settled by voice vote in the committee. It turns out that there was a recorded vote; it was decided by a one-vote margin with members on both sides of the aisle voting different ways. That, too, was as it should be, because we had in every instance on every vote that occurred within the committee a bipartisan majority. We never split across party lines.

That is the story as it relates to the Treasury Secretary.

I might say with respect to the Senator from Texas, that Senator GRAMM obviously also felt very strongly about the financing provisions and what he saw as its implications for what is left of the Gramm-Rudman-Hollings law, which most people around here refer to now—I do not say it disrespectfully—as the Gramm-Rudman law, because Senators HOLLINGS has sort of disowned it. He does not think it is honest anymore, and there are many of us who share that view.

The Senator from Texas was very emphatic in saying that not only would he lead a vigorous and lengthy floor fight against any budget waiver on the Senate floor, which, of course, requires a 60-vote margin, but also that that in itself would become another impediment along with the direct veto threat that was made by the Secretary of the Treasury.

So, those two factors became very compelling realities to the chairman and to others on the committee, as we looked at the problem of bringing this package to a resolution, getting the financing mechanism into place, and starting to resolve the problems of the insolvent thrifts. We needed to put a stop to the ongoing loss that is accumulating at a rate of at least $20 million a day.

So, that is where we found ourselves.

I should make at least one other point. It should be noted that both funding plans require a budget waiver. The plan that was developed by the committee under my direction would require a budget waiver of the entire amount of the financing on the front end, and the budget waiver required by the administration plan would require a waiver of a very small amount. I think the figure is $200 million in comparison to our much larger figure. In any event, both plans would require a necessary budget waiver and, of course, the 60-vote test.

That is a recap of the history of what has brought us to this point.

Before yielding the floor I will just say again that many of us felt strongly that, if there was any plausible way to squeeze down the cost of this package and minimize the amount of money the taxpayers would have to pay, that was part of our job. It was to find those kinds of opportunities and to seize them and effect a cost saving.

Four-and-a-half billion dollars over 30 years is a lot of money. I realize that the present value of that would be a figure of about one billion four hundred million dollars.

But I might just say to the President in the Chair and people in North Dakota and other places that, when it comes time to make those payments,

you do not pay them in present value dollars; you pay them each year for the next 30 years, and by the time all those checks are written the cost is going to add up to $4.5 billion.

That was the impasse that developed, and that was the manner in which we undertook to resolve it in the committee.

When a vote was asked for in the committee, the administration's financing plan prevailed. As I say, the vote was mixed between the members of the parties within the committee, and the administration financing plan is, of course, within the committee document.

The Senator from Florida is, of course, moving to replace that aspect of the plan with the approach that we had developed earlier.

With that, I know that other colleagues wish to speak, and I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I do not know how quickly this is all going to go tonight. I have been busy working on the budget resolution and trying to do the Lord's work here and there around the Capitol, and so I have not been over here during some of the debate.

I would like to say to my chairman that I congratulate him on his great leadership on this bill.

Our chairman is new as chairman of the Banking Committee, and I think that this is a great accomplishment and a testament to his leadership. I would like to congratulate him not only for strong leadership but absolute bipartisanship in putting this bill together.

I hold him in very high regard as a result of this important work, and I think the Nation will be in his debt when this bill is finally signed into law.

I could go into a long harangue in answering my dear colleague from Florida, but I am not going to.

I would just like to make several points, and then I am going to raise a point of order under the budget.

The first point I would like to make is that this is a rather unusual financial arrangement no matter which method is adopted. The plain truth is we can rejoice in the fact that we do not go around giving $50 billion bailouts on a continuing basis.

So no matter how this is scored, no matter how it is organized, this is going to be a financial transaction that is virtually without precedent in the financial history of the country.

Now, the question is how should we do it? I believe the right way to do it is the way the Treasury did it.

The Senator from Florida thinks the right way to do it is the way that he is proposing.

I submit, Mr. President, that no way is good. There is no way you can fill a $50 billion hole except with $50 billion. I submit, however, that the Treasury plan has several advantages. First of all, it conforms to the traditional financial structure that we have followed, to the degree that an unprecedented process can conform to a standard. Let me explain what I mean.

Under this extraordinary agreement, the savings and loan industry will borrow $50 billion, and they will, in essence, be subject to a procedure where they pay back the principal. The principal is not the debt of the Federal Government. It is the debt of the savings and loan industry.

In an extraordinary financial transaction, the Federal Treasury will pay interest on this note for 30 years. So you have the Federal Government paying interest; you have the savings and loan industry paying principal.

The decision was reached by the Treasury, a decision that I strongly support, which was the only way that we can reasonably set this up on the books of the Federal Government, that every time the Federal Government pays a dollar of interest or engages in any borrowing that counts as an outlay.

That produces the situation that is before us in this bill. The savings and loan industry borrows the $50 billion. We are going to expect them to pay back the $50 billion. We do not expect, nor will this bill allow, the taxpayer, in any way to payoff the principal on this note. That principal never shows up on the Federal Government's books. What does show up is each and every interest outlay.

Mr. President, the proposal that is made by the Senator from Florida is a substantial break with the reality of this agreement. His proposal is that we have the Federal Government, not the savings and loan industry, borrow the $50 billion. Then, under his proposal, we set up this requirement whereby, even though this is the debt of the Treasury, it will be paid back by the savings and loan industry.

By doing that, the $50 billion is brought on budget. We need a budget waiver to raise the deficit by $50 billion in 1989. Then, as the program continues to play out, as the proceeds of this borrowing or outlays go toward the rebuilding of the insurance fund to protect the depositors, you have a deficit impact in fiscal years 1990, 1991, and 1992.

Mr. President, my arguments against it basically are that, first, of the two proposals, the one the Treasury chose more nearly fits the standard procedure of the Federal Government. It has the advantage that it is clear from the very beginning that the savings an loan industry is borrowing the money, not the taxpayer.

Second, the proposal of the Senator from Florida has two really bad impacts in terms of setting precedents. The first precedent is that it would have us waive, with a 60-vote waiver, the Gramm-Rudman prohibition on adding new outlays, since we have adopted a budget for fiscal year 1989, and that budget is already over the targets. We have to get a 60-vote waiver to raise the deficit another $50 billion in order to implement this plan.

Mr. President, what I think is the problem in terms of this precedent is that if we vote today to waive the budget and to allow this $50 billion to be outlaid through the borrowing of this money by the Treasury, we are setting a precedent that in my opinion will make it easier for people to come to the floor of the Senate later this year and say, "We waived the Budget Act and raised the deficit in this fiscal year to bail out the savings and loan industry, why do we not do it to deal with the problems of the war on drugs? Why do we not do it with regard to education? Why do we not it with regard to housing? Are not those problems as severe as the savings and loan problems?"

I submit, Mr. President, that the problem with waiving Budget Acts is that you get people accustomed to waiving them, and I think we are inviting a tremendous run on the Federal Treasury if we follow the proposal of the Senator from Florida.

The Secretary of the Treasury believes that. I have letters here from various financial houses around the country that believe that, that believe the net impact of weakening the budget laws of the country would be to send interest rates up, not just on the amount of money we are borrowing here but on the whole Federal debt.

That is the first precedent we set that is a negative precedent, and in my opinion it is the reason why we ought to reject this proposal more than anything else.

The second reason is that we are setting a dangerous precedent if we agree to a policy that says that, if it is cheaper for the Treasury to borrow the money than it is for some quasi-governmental entity like FSLIC to borrow the money, then we ought to have the Treasury do it directly. What are we going to do when all of these Government agencies that borrow money, like the REA, or like the various credit institutions that actually go into the marketplace now in some cases and borrow money, what are we going to do when they come to the Treasury and say, "We could actually save money if we had the Treasury borrow the money for us and lend it to us"?

I think, Mr. President, that we have set up the structure of our fiscal system with sound principles in mind.

And the basic principle here is that the Treasury is not borrowing this money. The savings and loan industry is borrowing the money. They are going to pay the principal back. So I do not think we ought to set this precedent either, the precedent that if it is cheaper for the Treasury to borrow, we ought to have the Treasury borrow it rather than an entity that is going to use it.

Mr. President, I could go on and on. We are going to hear others if we debate the budget point of order or a ruling of the Chair, or whether to waive the Budget Act, but you also have the problem, Mr. President, that this destroys our bipartisan agreement. This is going to jeopardize this bill. We are going to spend tremendous amounts of money by delaying the ultimate passage of the bill. And so I submit, Mr. President, that this is a bad idea and that it ought to be rejected.

I do not impugn the motives of the distinguished Senator from Florida. It is not that his proposal is a phony one, and the one of the Treasury is not phony. The plain truth is you could set up a legitimate accounting system and do it either way. The point is that doing it this way conforms to the way the Treasury has always done it, whereas the proposal of the Senator from Florida does not. And, second, the amendment clearly is subject to a budget point of order.

I know others want to speak on this, and I might just pose a question to my colleagues who want to speak on the amendment: Whether I should go ahead and raise the budget point of order and then have the debate on the budget point of order or whether they would like to speak on the issue itself.

I yield to the distinguished Senator from California.

Mr. CRANSTON. I thank the Senator for yielding.

I wish that he would withhold the motion for just a moment. I think that the debate should be first on the merits and then we could debate the point of order. I would like to speak very briefly. I do not know of any other Senator who wishes to speak. Perhaps the Senator from Florida wishes to rebut a bit.

Then I urge the Senator from Texas to make his motion at the earliest moment that is appropriate so we can get to the decision. We have a lot of work to do, and we hope a rather short time to do it in.

Mr. GRAMM. Mr. President, maybe I should propound a unanimous consent request, that I would yield the floor, allowing the distinguished Senator from California to speak and the distinguished Senator from Florida to speak, if he wishes to, but then I be recognized to make the point of order. If no one has an objection to that, I would put that unanimous consent request forward. The distinguished Senator from Utah would also be included.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The agreement then is that the Senator from Utah, the Senator from California, and the Senator from Florida would all have opportunities to speak, then the Senator from Texas would be recognized for the purpose of putting a point of order to the Chair.

The Senator from California.

Mr. CRANSTON. Mr. President, I want first to applaud the Senator from Michigan for the very fine leadership that he has provided to the committee and that of the Senate in dealing with this incredible, complex, costly problem that confronts us and confronts the Nation. The committee acted with, I think, incredible speed yet with great care and I think very wisely on most of its decisions in one day of markup, after a lot of preliminary work and exhaustive hearings, where many witnesses came in, very expert people, to give us their advice.

I also applaud the Senator from Michigan for his effort to save as much money as he can by offering the proposal that is now before us in the form of an amendment offered by the Senator from Florida, that would put the enterprise and the task of paying the costs of this matter on budget with the hope, as expressed by the Senator from Michigan, the Senator from Florida, and other supporters of the effort, to save $4.5 billion. I also applaud the work and leadership of the Senator from Florida in offering the amendment on the floor at this point.

However, it is not absolutely certain that the proposal would save $4.5 billion. I hope that it would and it is quite possible that it would. But perhaps it would not. Perhaps, it would turn out to cost significantly more than it is intended to save.

In that respect I would like to read what Nicholas F. Brady, the Secretary of the Treasury, has had to say on that score. In an article that appeared in the Los Angeles Times on March 29, the following appeared in a summary of the views of the Secretary of the Treasury as expressed in a series of speeches in Texas.

> Brady also warned Congress, which will begin work on the S&L legislation next week, not to try to finance the whole $50-billion cost of the Bush Administration's S&L rescue plan in a single up-front appropriation, as some lawmakers want, because that would risk blowing apart the effort to reduce the federal budget deficit.
>
> During a series of speeches and press conferences, Brady said to do so would push total government outlays far above the spending ceilings established under the Gramm-Rudman budget law and would "completely . . . render a sham the budgetary discipline" that the government is seeking.
>
> That in turn would send interest rates up sharply and push the government's own borrowing costs out of control, he contended. "If interest rates rise by as little as one-tenth of a percentage point," he said, it would "overwhelm any cost savings" that might come from financing the S&L rescue package all at once instead of stretching it out over several years.

That is the end of the article.

I would like also to read very briefly from a letter dated April 4, an extract from it, to all Members of the Senate. In that letter Secretary Brady stated:

> If we fail to honor Gramm-Rudman-Hollings the effect on financial markets could raise Government borrowing rates. If these rates increase by as little as 2 basis points the resulting increased interest costs would dwarf any potential cost savings derived from direct Treasury financing of the savings and loan plan.

That is the other side of this issue. Frankly, I do not know, and I do not think anyone knows, which side is correct. But given that uncertainty, I think that it is wiser to go with the proposal offered by the Bush administration and by the Secretary of the Treasury and by the Republicans led by Senator GARN, the ranking minority member on the Banking Committee.

One of my reasons for coming to that view, apart from the uncertainty, is that if for any reason interest rates go up after we finished action on that bill, if we have adopted the Riegle-Graham plan, the Bush administration will blame the Democrats for the failure of the bill, for the havoc to the economy, and for failing to save money and for, on the other hand, taking a step that has caused a loss of significant funds.

After thinking it over with great care and deliberating at length with myself and with others, that is the conclusion I came to on the Banking Committee. That is why I voted as I did, against the Riegle plan and for the Treasury plan, in the Banking Committee. And that is why that is the way I will vote now when the matter comes to the floor of the Senate and comes to a vote on the point of order.

I believe that the point of order is a valid one. I believe that it should be sustained. And I believe that we should then go basically with the Treasury plan on financing as we are basically going with the Treasury plan with the Bush administration's submission of legislation in general on this matter.

I think we have made some improvements in the legislation submitted to us in committee. Perhaps we will make further improvements on the floor. But basically I think we should follow the proposal by the administration. That generally was the philosophy in the committee. We stuck to that philosophy basically in what we did in

that committee and I think we should follow that philosophy now on the floor.

Mr. President, the overwhelming costly crisis faced by the country and Congress regarding the thrift industry has been caused by a minority of mismanaged or fraudulently run thrift institutions and inadequate regulation rather than by an industrywide crisis. At least 50 percent of the FSLIC loses occurred because of the rapid growth of new entrants into the industry who were inexperienced, incompetent or unscrupulous. These institutions should be closed as soon as possible and the fraudulent players should be prosecuted to the fullest extent.

Seventy percent of the Nation's thrift institutions are healthy and prudently managed. The vast majority of their funds are invested in residential mortgages. The savings and loan industry is still vital to the home mortgage industry. Over 50 percent of home mortgage originations in 1988 were made by thrifts.

While I believe that S. 774 is a move in the right direction and addresses many of the causes of thrift failure, I am concerned that if it is not modified in several ways, it could ultimately impair the healthy segment of the thrift industry causing billions of dollars in added cost to the crisis. These are some of my concerns:

DIRECT REAL ESTATE INVESTMENTS

The bill prohibits thrifts from direct investment in real estate inside the thrift. All real estate investments are required to be placed in a subsidiary and 100 percent capitalized. The 100-percent capitalization is very onerous and in fact will have the effect of prohibiting this activity altogether. Additionally, many State-chartered banks have real estate investment authority, and they are not required, as thrifts are in this bill, to put these activities in a subsidiary. Under S. 774, there appears to be no reasonable basis for the distinction in rules on this subject between State-chartered banks and all thrifts.

It is true that losses from fraud and abuse of direct real estate investments have been enormous. However it would appear that those thrifts that have survived are acting responsibly in this area. It is equally true that many thrifts have failed from interest rate risk on the traditional home mortgage products. In California, State chartered banks have 5 percent direct investment authority in real estate—the same as California thrifts. Mr. Cardenas, the California State Banking Commissioner, has informed our office that there has never been a failure of a California bank because of this activity while at the same time many thrifts in California have failed when exercising the same real estate investment authority. This comparison of thrift and bank exercise of real estate powers clearly shows that direct real estate investment is not inherently risky and can be adequately supervised. Adequate examination and regulation should be the primary sources of risk control in this area. Strengthened capital is also the primary source of protecting the Government against loss in this area. The administration's proposal already subjects thrifts to higher capital requirements for investments with greater risk, and the Federal Home Loan Bank Board's capital standard would require an 18-percent capital against real estate development activities compared to 3 percent against residential real estate mortgage.

Analysis of the past 1987 direct investment activity by adequately capitalized thrifts by the Federal Home Loan Bank Board study in 1989 indicates that properly supervised real estate investments are both profitable and relatively safe. It states that while direct investments have been a factor in many FSLIC resolutions, such investments are only one factor and not an overriding one. Risk-based capital standards have been proposed by every Federal banking agency as a more effective way to control risk in this area by penalizing thrifts that do not have the capability to perform the activity. Such ill-prepared thrifts would not be able to raise the capital necessary to meet the guidelines. This would be a much better approach than prohibiting all direct investments, or setting conditions for the activity that will be impossible for most thrifts to achieve.

Once risk-based capital is adopted, there is no longer any logical reason to maintain the bill's onerous treatment of activities conducted by thrifts in subsidiaries that are not permissible for national banks.

HIGH YIELD BONDS

The committee takes a somewhat similar though, less onerous approach to high yield bonds. Even here, there has been no evidence presented on the record to show that high yield bonds are inherently any riskier than traditional mortgage products. In fact the GAO and the Wharton Business School study in 1988 found that high yield bond investments have not contributed to the current crisis nor caused a single thrift failure. Many State and federally chartered thrifts have prudently, responsibly, and perhaps more importantly, profitably engaged in this activity.

The mandatory 100-percent capital requirements for both real estate and high yield bond activities will achieve the perverse result of wiping out the capital of many healthy thrifts that will have to meet the 1991 capital standards while having to raise 100 percent capital for direct investment activities at the same time. The future of the thrift industry depends, in part, on a degree of investment flexibility and innovation. Without some diversification, thrifts will simply be unable to compete for investment dollars, the very capital they will need to sustain them in the future. The administration's bill anticipates that investors will find thrifts an attractive investment. Confining thrifts to traditional mortgage products will not enhance their ability to raise capital in the future.

QUALIFIED THRIFT LENDER TEST

The new qualified thrift lender test [QTL] in section 303 of the bill represents a significant tightening of the QTL test and could pose real problems for savings institutions that choose to maintain a healthy diversified portfolio. The new QTL removes liquidity as an eligible asset, and diminishes the maximum credit for mortgages originated and sold in the secondary market from 10 percent to 5 percent of tangible assets. Originating and selling loans supports housing while creating fee income for saving institutions without exposing them to future interest rate risks. This provision is weighted against institutions that function more like mortgage bankers in favor of those that retain mortgages in their portfolios. By doing so, we may be trading the problems of the late 1980's dominated by loans of poor quality with the problems of the late 1970's dominated by saving institutions losing money on underwater portfolios as market interest rates ratcheted up in response to inflation. The legislation allows the thrift regulator to suspend the QTL when interest rates are high and mortgage demand is reduced, but does not permit adjustment when interest rates are low. This tells thrifts to load up on fixed rate mortgages when rates are low, which is what most consumers demand. Such behavior could set the stage for massive interest rate risk in a rising interest rate market in the future.

The penalties for not meeting the QTL test in the bill are: prohibiting thrift access to the advance window of the Federal Home Loan Banks; revoking thrift status as an S&L holding company; revoking the thrift charter, these penalties are particularly onerous and could trigger a very expensive recapture of the bad debt reserve used by most savings institutions. I would hope that we would be able to look at the issues raised by the new QTL test as we move forward on the consideration of this important legislation.

In summary, undoubtedly many factors contributed to the current financial problems facing the savings and loan industry and the FSLIC fund. I firmly believe that this bill addresses overall in a substantial and reasonable manner many of the regulatory breakdowns that have occurred over the past years. I trust it will put an end to

the excesses we have witnessed in the thrift industry. As with all comprehensive reform, many compromises have been made and will be made, and we cannot know every effect that will result. It will be important for the administration and the Congress to monitor closely the implementation of this legislation in the time ahead.

The PRESIDING OFFICER. Does any Senator seek recognition?

The Chair recognizes the Senator from Utah. [Mr. GARN].

Mr. GARN. Mr. President, my comments will be brief but I do not intend to make them before the point of order. I understand the Senator from Florida will make a motion to waive the point of order and I will speak after he makes that motion.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida, Senator GRAHAM.

Mr. GRAHAM. Mr. President, first a point of parliamentary inquiry. It is my intention to move to waive the Congressional Budget Act pursuant to the stated intention of the Senator from Texas. At what point should the motion to waive be placed before the body?

The PRESIDING OFFICER (Mr. ROBB). The motion to waive can be made at this time or at any time prior to the Chair's ruling on the point of order.

Mr. GRAHAM. Mr. President, I will withhold some of my comments relative to the statements that have been made until we discuss the specific questions of the waiver of the Budget Act. I would agree with the statements that have been made by the Senator from Texas, that this is an economic crisis circumstance for which there is no historical precedent. So whatever we do, we are charting new and, unfortunately, extremely stormy waters.

I would also agree that there are no easy answers to an issue that is as enormous as how to fill the void of educational standards, the void of prudent regulatory behavior, the void of acquiescence and the void of over $50 billion that we attempt to do with this legislation.

In terms of what we are actually doing here, it has been stated that these bonds do not have to be on budget because these are not really the obligation of the U.S. Government. They are the obligation of the savings and loan industry. The taxpayers are just as an acquiescing spectator somewhere up in the third deck of the stands, watching as the main action takes place on the S&L industry's field.

I would like to point out just who is paying the costs to get into the stadium. The S&L industry, through the assessments that will be levied over the next 30 years, will pay a total of $51 billion, of which $11 billion is in principal and $40 billion is in interest. That is under the economic assumptions of the administration.

The taxpayers who are the acquiescing, noninvolved people up in the stands, over the same period under the same economic assumptions of the administration are going to be paying a total of $176 billion; $81.9 billion in principal and $94.1 billion in interest.

So, to say that this is a commercial transaction involving the S&L industry and should therefore be treated as, in some way, divorced from the legitimate concern of the American taxpayer, I think substantially misstates who the real party at interest is and who the real party at payment of the interest is going to be.

I would also point out that while it is true that these bonds are going to be issued by a third party, the Resolution Trust Corporation, the reality is that these bonds are going to be seen as and treated as, and we would if called upon, deal with them as, obligations of the U.S. Government.

So whether legally, yes, or legally not advisable, the reality is that the credit of the U.S. Government is going to be behind the bonds that are going to be issued. This is, in everything other than the most cosmetic sense, a financing of the U.S. Government and, therefore, as such, we as the responsible representatives of the people of the United States should assure that it is done in the least expensive manner.

So, Mr. President, with that said, I move that pursuant to section 904 of the Congressional Budget Act that titles III and IV be waived as they would apply to this amendment.

The PRESIDING OFFICER. Is there further debate on the motion? The Chair recognizes the Senator from Texas [Mr. GRAMM].

Mr. GRAMM. Mr. President, I was prepared to raise 311 point of order, which is a 60-vote point of order. There are numerous points of order against this amendment. I was not listening at the moment, and forgive me for that, Mr. President, but the point of order that the distinguished Senator from Florida wishes to waive, among those points of order listed, was 311(a), which is a 60-vote point of order in that list?

The PRESIDING OFFICER. It is the understanding of the Chair that the way the Senator states the motion, that is correct.

Mr. GRAMM. So it will require 60 votes to waive, as it has been propounded by the Senator from Florida.

The PRESIDING OFFICER. The Senator is correct.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah, Senator GARN.

Mr. GARN. I thank the Chair. This is a very difficult subject. From the very beginning when we started discussing it with Treasury last November and started talking about funding, it became very evident very rapidly that there simply was not a good solution to the problem. No matter what type of financing we looked at, you were trying to find the lesser of evils.

Let us face it, when you have a $50 billion hole to fill that Senator GRAMM of Texas said, you can only fill it with $50 billion, and that is an enormous sum of money. So how do you devise and plan? I have to admit, I did not have the background in finance to even start thinking about how you did it. You had to deal with experts making suggestions and alternatives and then try to winnow it down to something that was acceptable. So I can remember when Treasury first asked me if I could support their plan. I looked at it and I said, well, of all the plans that are available, it is the least worst.

So I am not out here in glowing terms to defend any of these plans, but after several months of looking at them, there is no doubt in my mind that the Treasury plan is the best of what is available, although certainly not one that any of us wish we were here having to vote on or even having to take a look at this particular problem. We wish it was not here. We wish it would go away, but it will not.

As I look at the on-budget versus off-budget, obviously you start from the premise, well, it is more open to put it on budget. However, certainly the administration's plan has not been hit. It was announced openly and early by the President. It has been discussed at great detail. It is partially on-budget. The interest is on-budget. The $50 billion is off-budget, but I think an important point to be made is that the industry caused the problem and is in trouble as the one who will be on the hook for that $50 billion. I do not think the taxpayers should. I think that is an important division to make. We let them borrow the money and the taxpayers are involved in paying the interest. This is the No. 1 reason why I think we need to do it.

I take no back seat to any Senator on wanting to save money. Certainly my voting record by anyone who wants to look at it for 15 years would indicate that I have voted on the side of fiscal responsibility virtually all of the time.

So I would like to be able to save $4.5 billion. That is a lot of money. But I am not sure the $4.5 billion is there. It could be more; could be less. Alan Greenspan testified before the Senate Banking Committee and we were talking about estimates as the size of the problem, what he thought that was, how much he thought we could save and his reply, to paraphrase, is he could not tell us what interest rates would be next month, let alone over the next 30 years. I think

that is a fair statement that everybody would agree with.

There is no one in this body that could with certainty predict even an average interest rate for the next 30 years. But let me assume that $4.5 billion is a correct figure. Every Member of this Senate, I am sure, would like to be able to save that amount, but there is also no doubt in my mind that the method that is suggested by the distinguished Senator from Florida would cause an increase in cost.

First of all, I am absolutely convinced that Secretary of Treasury Brady means it when he says if the financing method is changed he will veto this bill. Whether people agree with that stand or not, Secretary Brady is very sincere about that. That would cause delay. If you take the minimum estimate that runs from half a billion dollars to a billion dollars a month—take the minimum, a half a billion dollars a month—if we delay this bill's implementation for a few months because of a fight over a veto, we have eaten up all of the $4.5 billion worth of savings.

I am also convinced from people on Wall Street that I have talked to that are certainly big market players, that if we suddenly increase the deficit by $50 billion by agreeing with the Senator from Florida that we should waive the Budget Act to increase the budget for fiscal year 1989 by $50 billion, that that will raise interest costs on the overall deficit. That is estimated at a half a billion dollar increased interest cost to the public. We save $150 million apparently by going to the Senator's budget plan for thrifts bailout. That is a net loss of $350 million per year to the taxpayer.

If the Senator from Florida could convince me that his plan, would actually save $4.5 billion, I would be standing here defending it. I think it probably will in isolation, but there is no doubt in my mind that it will have impacts on the overall budget and particularly disturbing to me is 1990, an estimate of some $22 to $25 billion of outlays on budget that under Gramm-Rudman-Hollings we all know you only have two choices if you want to put more money into a particular function, whether it is housing, whether it is the environment, whether it is NASA, whether it is EPA; you have to take it out of another function or raise taxes.

We have decided in a budget summit that taxes will not be raised, and so you suddenly put $22 to $25 billion into that budget summit that was just agreed to last Friday and you have blown that entire agreement between the leadership of the Congress and the President totally out of the water.

I know I do not want $5 billion taken out of NASA, and that every Member of this body is trying to find $22 to $25 billion, they would defend for all of their pet projects, just like I would—general science, function 250, NASA, EPA, science education. There are people who would defend the veterans and on and on and on, and Congress has decided we are not going to raise taxes for next year. So where does it come from? From a practical matter, this plan causes serious problems in the markets for fiscal year 1989, a raise in interest rates and difficult expenditure outlay problems in fiscal year 1990.

It is clearly a violation of the budget and that is why the Senator from Florida has to make a motion to waive the Budget Act.

To sum up what we are doing, and I certainly am not going to be a party to this, a vote to waive the Budget Act is a vote to increase the budget deficit for fiscal year 1989 by $50 billion. I hope my colleagues are listening because I do not want to do that. I do not want to go home and explain to my constituents why I voted for a $50 billion increase in the deficit. I realize it can be said $50 billion has to be spent anyway and we might as well put it on budget and be realistic about it. I could accept that argument, I suppose, if it were not going to increase overall interest costs and increase the cost of this plan from a net standpoint to the taxpayers of this country. They are already bearing an unfair burden of a problem that they did not create. This Senator will not vote for a $50 billion increase in the 1989 budget.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MACK. I thank the Chair.

I wanted to take this opportunity to make several comments with respect to the proposal to waive the Budget Act. There have been several reasons mentioned why this proposal to put the financing on budget makes sense. One of those is that it is more honest and the second is that it saves money.

I would raise the question about the honesty from two points of view. One could make the argument, if we are being totally honest, that every bit of financing done by the Federal Government's agencies or bodies should in fact be on budget, so that argument by itself does not sway me that this should be put on budget.

In addition to that, I think you have to look at the method of repayment. We have agencies that have issued bonds that have not in essence guaranteed repayment through the pledging of assets. Under the Treasury proposal, we actually see the savings and loan industry providing some $6 billion in assets that will be invested in zero coupon bonds that over a period of 30 years will guarantee, if you will, the payoff of that $50 billion used to make whole the depositors at failed savings and loan institutions. So my point is, we have a very unusual type of financing that I think in fact states it ought to be treated in a different way and should be treated off budget.

With respect to saving money, I introduced the Gramm-Rudman legislation in the House and I am very concerned about the amount of money that is spent. I am also very concerned about protecting the validity of the Gramm-Rudman proposal, I am convinced that if we are to go on budget with this, waive the Budget Act, and raise the Federal Budget deficit by $50 billion in fiscal year 1989, we will send a signal throughout this country, to the financial markets and, frankly, throughout the world to the world financial markets, there is no value any longer to Gramm-Rudman, that the targets are meaningless. The end result of that is an increase in interest rates.

I believe the Senator from California indicated by a letter from the Secretary it is possible we would see an increase in interest rates as a result of breaking our objective of reaching the Gramm-Rudman targets. So I for one do not believe we are going to save money under this proposal. As a matter of fact, if it were to go through and be a budget item, increasing Federal borrowing by $50 billion in a single year would actually increase the cost of Federal borrowing, and it would ultimately increase the cost to the American taxpayer.

Again I think you have to break this financing down into two components: The first is principal and ask the question how the principal is going to be repaid. Again, I would make the argument that the principal is going to be repaid through the defeasance of some six billion dollars' worth of S&L assets.

The second aspect of it is the interest. It is true there will be some interest cost that is going to be picked up by the taxpayer but that portion of the bill calls for interest to be on budget, and so I think we have the best method of financing under the Treasury proposal and therefore I will be voting in opposition to the waiver. I thank the Chair.

Mr. SASSER. Mr. President, as chairman of the Senate Budget Committee, I rise in opposition to the amendment of the Senator from Florida.

I do so because this amendment takes advantage of several loopholes in the budget process. And it will result in the second highest Federal budget deficit in American history.

We are certainly facing a very expensive proposition here in the S&L bailout. However, it is not clear that the amendment will save the taxpayers any money.

Moreover, this is an abuse of the budget process. As part of the budget summit negotiations, my colleagues in the House of Representatives, chairman PANETTA, and I attempted to alter the budget treatment to a true on-budget approach—one that we considered up front, more honest and potentially cheaper. We were unsuccessful; the administration absolutely refused a clean up front on-budget approach—an approach that did not involve abusing loopholes.

I strongly urge my colleagues not to waive the Budget Act point of order on this amendment. This type of massive back door spending is precisely what Budget Act points of order are designed to guard against.

The amendment of the Senator from Florida is designed to replace the FSLIC financing plan contained in the President's bill.

Under President Bush's proposal, the savings and loan industry will finance the principal of the $50 billion bailout, while the Treasury pays most of the interest. Because the savings and loan industry is financing the principal, the bailout is deemed to be off budget.

The amendment of the Senator from Florida would put the bailout on-budget, but only in fiscal year 1989. He would still maintain the off budget entity in post-1989 spending. The amendment really combines two separate abuses of the budget process.

Indeed, since the outlays for case resolutions would necessarily have to occur in subsequent years, the amendment could even cause sequester.

The Federal deficit for fiscal year 1989 is already some $25 billion over the Gramm-Rudman-Hollings target of $136 billion for this year.

This amendment would send the deficit another $50 billion higher—well over the $210 billion mark. The fact that Congress can possibly do this kind of back door spending once you are in a fiscal year is a loophole in the budget laws.

Furthermore, the abuse of this loophole could send a signal to our international creditors as well as the American people that we are not serious about deficit reduction. Therein, Mr. President, lies the danger.

If our international creditors do not think that we are serious, and creating the second highest deficit in history could indicate a lack of seriousness—they may begin to worry, and demand a higher rate of return on our Treasury debt. This could easily wipe out the savings that would occur under Senator GRAHAM's proposal.

Mr. President, beyond whether or not this plan is cheaper, it is simply contrived to get around the Gramm-Rudman-Hollings law. It makes swiss cheese of the budget rules.

If we set this precedent of massive back door spending, there would be nothing to prevent this from occurring in every fiscal year.

Moreover, Mr. President, the amendment by the Senator from Florida also raises the potential for sequestration. It is very possible that OMB would consider the financing vehicle contained in the amendment to be on-budget. Therefore, outlays by the agency could be scored in fiscal year 1990.

If this happened, spending would be $25 billion over the Gramm-Rudman ceiling. OMB could order a sequester that would force an approximately 20 percent cut in domestic discretionary programs.

In sum, Mr. President, it is not clear that the savings are there. Moreover, its irresponsible to belabor this issue when the FSLIC is losing eight times per month what this amendment would supposedly save per year. Mr. President, from a budget and a taxpayer perspective, this is absolutely not worth a partisan wrangle.

We tried to get the administration to do a clean honest on-budget approach. The administration rejected it.

The amendment is an abuse of the budget process and sets bad precedents. The time to have considered a true and honest on-budget approach has long past. I urge my colleagues not to waive the Budget Act for consideration of this amendment. I yield the floor.

The PRESIDING OFFICER. Does any other Senator wish to speak to the motion?

Mr. GRAMM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRAHAM. Mr. President, I ask unanimous consent to close on the motion to waive before the vote commences.

Mr. GARN. Reserving the right to object, I simply did not hear the Senator's request.

Mr. GRAHAM. I ask unanimous consent to be able to close on the motion to waive before the vote commences.

The PRESIDING OFFICER. The Senator has the right to recognition and the floor at this time.

Mr. GRAHAM. Mr. President, I appreciate the high standards of debate because this is a serious issue that has received the serious attention of both the Members of this body and the administration. I would like to point out the fact that there are substantial similarities between the approach which the administration has suggested and the approach which the chairman and I have proposed. Both approaches are going to require a budget waiver. We are now about to vote on the budget waiver to allow the consideration of the alternative which the chairman has developed and which I have advanced. At some point in the future I assume we will be debating a budget waiver on the method of finance which the administration has provided. I underscore that by however we resolve the amendment that is before us and the request for budget waiver, we will not avoid the necessity for another budget waiver on the underlying financing that is contained in the bill.

Second is that whichever approach is suggested, the same relative contribution will be made by the American taxpayers and by the S&L industry. Under both approaches, the S&L industry will pay the principal on the purchase of the zero coupon $50 billion bonds, a cost which is estimated in the range of $6 billion to $7 billion. The American taxpayers will pay the interest on those bonds, which is estimated under the administration's plan to be slightly in excess of $90 billion.

I believe that it would be important and appropriate in the total context of this legislation if the Senate were given the opportunity to vote on the amendment which the chairman developed and which I have offered. It would allow us to deal with a greater sense of honesty. Yes, it is going to require that we place on budget some significant amounts of expenditures. To do otherwise is not to cause them to vanish. To do otherwise is not to cause the American taxpayer not to have to pay less. In fact, by virtually all accounts it will cause the American taxpayer to pay more. The only benefit is that we create this fiction that we have a debt that does not really exist.

Third, Mr. President, I believe it is important that we do this so that we can begin dealing with substance rather than envelope ourselves in layer after layer of process. Gramm-Rudman-Hollings was passed by this Congress as a means of providing some discipline, as a means of setting some goals to reduce the Federal deficit and then to implement year by year a stairstep down to a balanced Federal budget. That is a goal that has tremendous support in this body and by the American people. What we are doing is making a travesty of those goals. We are substituting process for the achievement of the objective. We have effectively taken $50 billion of the American taxpayers' obligation and moved it off budget.

I would respond to my friend from Texas, if we can do this in this proposal, why can we not shred Gramm-Rudman in every other difficult and expensive problem, whether it is cleaning up nuclear facilities where we

know we have an enormous problem ahead of us or whether it is dealing with the issue of America's crumbling infrastructure, where we have an enormous problem ahead of us.

Why do we deal with all of those by this convoluted manipulative financings to take it off budget so it will not count on Gramm-Rudman? I believe we are doing this in order to shift to the future, and to a hidden future, an obligation that should in fact be our generation's to pay.

Mr. President, I close by urging that we waive the process so we can deal with honest substance and by giving us an opportunity to vote for the least costly method of financing a financial crisis without precedent in American history. At least, we will be able to point to this one vote when asked where were you in April 1989 when the American people were asked to come forward and pay in this the next and the next generation for the last 10 years of economic indiscretions.

Thank you, Mr. President.

The PRESIDING OFFICER. If there is no further debate, the question occurs on the motion——

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois [Mr. DIXON].

Mr. DIXON. I yield to the Senator from New Mexico.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Mr. President, the amendment offered by the Senator from Florida would change the way we fund the resolution of failed savings and loan institutions.

The administration has proposed establishing a Government-sponsored enterprise—the Resolution Funding Corporation or Refcorp—to raise money for this purpose. Refcorp would borrow $50 billion from the public and make these funds available to close down failed thrifts.

Under the administration's plan, the expenditure of the borrowed $50 billion would not increase the deficit. That is because of the off-budget status of Refcorp.

The Senator from Florida has offered an amendment which some have described as the on-budget alternative. It would maintain the administration's financing plan virtually intact with one major exception—Refcorp would borrow from the Treasury, rather than from the public.

When the administration was putting together its plan, it had to make a choice: either use Treasury funding and seek an exemption from the Gramm-Rudman-Hollings deficit targets or use a nongovernmental entity and pay a slightly higher cost.

The administration decided that private borrowing was the best way to go. In their judgment, it was better to pay a slight premium than to establish the precedent of exempting this activity from the Gramm-Rudman-Hollings targets.

There are differing views on this issue, but I respect the reasoning used by the administration.

The problem with the Graham amendment is that it doesn't make the choice. It attempts to have it both ways—Treasury funding and no GRH exemption.

As I understand it, the intent of the amendment would be to have Refcorp borrow $50 billion from the Treasury in fiscal year 1989, at least on paper. This would allow all of the outlays to be scored in the current fiscal year and avoid adding to the deficit in fiscal year 1990 and beyond.

The only way that this works is if Refcorp continues to be considered a nongovernmental entity—in other words, off budget.

I oppose the Graham amendment on the grounds that it would create a dangerous loophole in budget accounting. Surely we cannot establish a corporation, allow it to borrow from the Treasury, and suggest that this is somehow not a Government activity.

If this model works, it would set a precedent for all manner of new initiatives funded after the start of the fiscal year—that is, after danger of a sequester under Gramm-Rudman-Hollings has passed.

I am equally concerned that this amendment may not work in the way that its proponents have suggested. The Office of Management and Budget has advised that all of the outlays probably would not be scored in fiscal year 1989, thus increasing the fiscal year 1990 deficit by $22 to $25 billion.

I am not unsympathetic with those who seek to minimize the cost of this package. In the exercise of budget discipline, however, let us not establish a precedent that could cost us far more in the long run than any savings that would be achieved here.

Mr. President, Members of the Senate, sometimes we come to the floor on a Budget Act waiver and one of two things is before us. On some occasions, the issue is not a very significant one and the Budget Act is being used for technical reasons. At other times we come and it is very serious. The Budget Act is vitally involved in the future of our fiscal policy, and that is being violated.

For most of my years in the Senate, I have been one who has approached budget waivers on the substance. I try not to do it when they are technical kinds of things. I would not stand here tonight if it was a technical issue. Let us assume that someone is opposed to something, says it violates the Budget Act, and needs a waiver. I would not necessarily be persuaded. I am here tonight because this is substantive.

The funding plan proposed by the amendment has many problems in terms of the Budget Act and its logical interpretation. I am concerned about what happens to fiscal policy under the few valid constraints that we have. I must say to the Senate I hope we do not waive the Budget Act tonight. I believe it is there for a purpose.

I am not going to try to talk about the history of the act. Suffice it to say from my standpoint, as one who has been involved a long time, it is tough to get fiscal discipline, and it is easy to open the floodgates. It is easy to change perceptions of what we are doing.

This amendment will not only have an effect from the standpoint of perception but it will have a very large negative on the substance. The committee was prudent, I believe, in not doing it this way, and I urge that the Budget Act not be waived.

I yield the floor.

The PRESIDING OFFICER. Does any other Senator desire to debate the motion to waive titles III and IV of the Congressional Budget Act?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, to accommodate many Senators who are involved, some who are off the Hill and some who will be leaving, I ask unanimous consent that this vote commence at 6:40 p.m. and be a 20-minute vote lasting until 7 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, the question is on agreeing to the motion of the Senator from Florida to waive titles III and IV of the Congressional Budget Act. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from New Jersey [Mr. BRADLEY], is necessarily absent.

I also announce that the Senator from Tennessee [Mr. GORE] is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 48, nays 50, as follows:

[Rollcall Vote No. 47 Leg.]

YEAS—48

Adams	Fowler	Metzenbaum
Baucus	Glenn	Mikulski
Bentsen	Graham	Mitchell
Bingaman	Harkin	Moynihan
Boren	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pressler
Bumpers	Johnston	Pryor
Burdick	Kennedy	Reid
Byrd	Kerrey	Riegle
Conrad	Kerry	Robb
Daschle	Kohl	Sanford
DeConcini	Lautenberg	Sarbanes
Dodd	Leahy	Shelby
Exon	Levin	Simon
Ford	Matsunaga	Wirth

NAYS—50

Armstrong	Gorton	McConnell
Biden	Gramm	Murkowski
Bond	Grassley	Nickles
Boschwitz	Hatch	Packwood
Burns	Hatfield	Rockefeller
Chafee	Heinz	Roth
Coats	Helms	Rudman
Cochran	Humphrey	Sasser
Cohen	Jeffords	Simpson
Cranston	Kassebaum	Specter
D'Amato	Kasten	Stevens
Danforth	Lieberman	Symms
Dixon	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Durenberger	McCain	Wilson
Garn	McClure	

NOT VOTING—2

Bradley	Gore

The PRESIDING OFFICER. On this vote the yeas are 48, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. MOYNIHAN. May we have order, Mr. President.

Mr. GARN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. RIEGLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, pursuant to section 311(a) of the Budget Act, I raise a point of order against the pending amendment.

The PRESIDING OFFICER. Adoption of the amendment would cause outlays to exceed the ceiling for outlays established in the fiscal year 1989 concurrent resolution on the budget. The point of order is well taken. The amendment falls.

The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, for the benefit of Senators we will now take up the request for a waiver on the bill itself which will require a vote and which will be the subject of what I hope is relatively brief debate. There will be another vote in the near future.

Mr. DOLE. Will that be a rollcall vote?

Mr. MITCHELL. Yes; it has been requested.

At this time I would like to ask for those Senators who intend to offer amendments to make their intentions known. It is my hope that we can obtain an agreement that would identify the amendments and provide reasonable time for their consideration and then agree to a time certain for disposition of the bill itself.

I understand that the distinguished Senator from Ohio has indicated an intention to offer one or more amendments. I would ask him if he could advise us on his intention at this time.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I would like to cooperate with the majority leader but at this point I am not in a position to give the majority leader any specific understanding with respect to amendments. We learned about the bill, the exact language of the bill, Saturday at 10:30.

There are 23 committee member amendments that were added to the bill in the closing hours of the committee meeting. It is 564 pages and I understand there is also a final committee amendment that we have not as yet seen.

I would say at this point I am not in a position to come to an agreement with the leader as to how many additional amendments I would have.

Mr. WARNER. Mr. President, the distinguished Senator from Georgia and myself would have an amendment. It deals with hostile takeover situation where one financial institution in our judgment has an advantage by virtue of the fact there is a substantial investment by the Federal taxpayers through the FDIC.

We are now meeting on that and we are not able to give the leader a time agreement at this time.

Mr. MITCHELL. The Senator is not able to?

Mr. WARNER. We are not able to.

Mr. CONRAD. Mr. Leader, could I ask just a question?

If the small bank problem that I had earlier identified for the chairman of the Banking Committee has not been satisfactorily resolved, then I would have an amendment on the small banks with respect to the level of fines. I do not know if that was satisfactorily resolved or not, but if it has not been, I have an amendment on it.

Mr. GARN. Will the majority leader yield?

Mr. MITCHELL. I have been informed by the chairman that it has not yet been satisfactorily resolved.

Do I understand that the Senator, if it is not resolved to his satisfaction, will have an amendment that he intends to offer?

Mr. CONRAD. I hope it will be worked out and not require an amendment but, if it is not, I will offer an amendment.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Washington.

Mr. GORTON. The majority leader should understand that I have an amendment at the desk which I am willing to settle by a colloquy. We have been unable to reach an answer on that colloquy and until we are able to do so I am not in a position to agree to a unanimous-consent agreement.

Mr. RIEGLE. Will the majority leader yield on that point?

Mr. MITCHELL. I yield.

Mr. RIEGLE. We have gone back and forth on that issue. It is still up in the air, and we are trying to see if we can find a way to settle it short of an amendment, but we are not there yet.

So I think it is appropriate that the Senator be protected, which he in effect has done by stating his intention to be prepared to offer an amendment, if we are not able to work it out.

Let me also indicate that Senator ADAMS has indicated that he has an amendment that deals with the Canadian acquisition issue that he also would ask us to put on the list.

Mr. MITCHELL. That is five amendments which have been the subject of an intention to offer and the distinguished Republican leader has just provided me with a list that includes three more. So that is eight.

My next question, then, addressed to the Senators is: Are any of the eight Senators who intend to offer an amendment prepared to do so?

Mr. EXON. Mr. Leader, the Senator from Nebraska has been trying to offer an amendment since noon. Although there have been appeals: Please offer an amendment; I could not get it in.

I am ready to offer an amendment right now that I think is acceptable on both sides, if that will help the majority leader a little bit.

Mr. MITCHELL. By gosh, I want to assure the Senator from Nebraska I will use all my influence to get that amendment considered carefully.

After several hours, you deserve some attention. I will speak to the manager about that.

My question is as to the eight amendments that have been suggested. Are any of those Senators prepared to offer an amendment at this time so we can debate them and vote on them?

Mr. NICKLES. If the majority leader will yield, I have an amendment. I believe I am included in that list, and I will be happy to offer it at this time. Whether or not it will be accepted remains to be seen. It provides for discretion for FDIC to charge assessments on foreign deposits. It does not mandate it.

Mr. MITCHELL. If the Senator will be prepared, we can proceed to that this evening. That gives us some idea of what we are doing.

Are there any other of the eight Senators who are offering amendments prepared to do so? Understand now, anything we do not do tonight we will likely end up doing on Friday or possibly later.

Mr. GARN. Will the majority leader yield? I think the majority leader is aware we do intend to take care of the other budget waiver tonight.

Mr. MITCHELL. Yes; I already indicated that. That will be this evening.

Then for the benefit of Senators, there will be five more amendments taken up this evening: Senator EXON's, which will not require a vote; Senator NICKLES', which will require a vote, and the budget waiver on the bill itself. I understand that there are few requests for time on the budget waiver itself. The distinguished Senator from Ohio has indicated he intends to speak for 10 or 15 minutes on it. Could the Senator from Oklahoma give other Senators an indication of the amount of time he feels would be appropriate to consider his amendment?

Mr. NICKLES. This Senator would probably only take about 10 minutes. I think the Senator from Iowa would like a comparable amount of time. There may be additional Senators, but my guess is 20 minutes on our side and an equal amount on the other side would be fine.

Mr. METZENBAUM. Will the Senator from Oklahoma be good enough to advise us what his amendment is?

Mr. NICKLES. I will be happy to. The essence of the amendment will be simple. Maybe by explaining it, it will save us some time. It basically gives the FDIC the authority to make assessments on foreign deposits. Right now, foreign deposits have no assessments.

Mr. METZENBAUM. I thank the Senator from Oklahoma.

Mr. MITCHELL. If 20 minutes on a side would make 40 minutes for consideration of the Nickles amendment; 20 minutes total, 10 minutes on each side to the budget waiver would make a total of 60 minutes and the Exon amendment does not require a vote, therefore, if the distinguished Republican leader has no objection, it would be my intention to propound a unanimous-consent request that would stack those two votes at or about 8:30. Senators could then be protected until then. Those would be the only two remaining votes, and in the intervening time we could dispose of those three amendments as indicated.

Mr. DIXON. Will the distinguished majority leader yield for a question? I wonder if I misunderstood what the distinguished majority leader said when he indicated we would have to work Friday. I thought my math indicated that we have only about six amendments left that were identified, and since we have until 4 or so tomorrow afternoon, I wonder whether the distinguished majority leader, working with the distinguished Republican leader and the managers, might not see if we could develop a unanimous-consent agreement to identify those amendments and limit the time and get an agreement for a rollcall on the bill itself at 4 o'clock tomorrow afternoon?

My sense of it is that most of this was considered pretty extensively in committee. There is not any great movement on the floor here, nor is anybody indicating to me they want to spend a lot more time on this bill. But I say that respectfully to the majority leader.

Mr. METZENBAUM. Without propounding the unanimous-consent request, I say to my friend from Illinois, I would not be in a position to agree to a unanimous-consent request.

Mr. MITCHELL. Three Senators have expressed that sentiment. The best way to do it is do it in steps. Overnight we will try working with the Senator from Ohio and others to work out an agreement that is acceptable.

Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the request for a budget waiver for the bill itself under the time agreement, a total of 20 minutes, 10 minutes each side in the usual form and subject to the same designation; that immediately following the completion of that 20 minutes, the Senate proceed to consideration of the Nickles amendment under a 40-minute time agreement, 20 minutes to each side; that no second-degree amendments be in order and that immediately upon completion of the vote on the first amendment, there be a vote on the Nickles amendment with no intervening action.

I amend my request to ask unanimous consent that the Senate proceed first to the amendment of the Senator from Nebraska under no time agreement and that as soon as that is disposed of it go to the request for the budget waiver, then to the Nickles amendment and that the vote on the budget waiver occur at 8:15.

Mr. GARN. Reserving the right to object, and I shall not object, but it has been the intention of both the chairman and I to table most amendments. On the Nickles amendment, I would want the right to be able to table.

Mr. MITCHELL. Does the Senator from Oklahoma understand that?

Mr. NICKLES. Yes.

Mr. MITCHELL. The vote on the budget waiver occur at 8:15 to be followed immediately by a vote on the Nickles amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader?

Mr. NICKLES. It may well be that we could expedite that even quicker. I would hope that would be the case, so maybe we would want to have it no later than 8:15?

Mr. MITCHELL. The problem with that is there are Senators coming and going. I think it is better to set a specific time, then Senators will know what it is. There is a constant problem. Some want to leave and come back; others are away and want to come. So I think it is best to leave it at 8:15 so that Senators will know for certain there will be two votes at 8:15. The first vote will be on the budget waiver on the bill itself. The second will be on the motion to table the amendment of the Senator from Oklahoma, so there will be no misunderstanding about that.

Prior to both of those amendments being taken up, the amendment of the Senator from Nebraska will be taken up. I understand that is acceptable, and it will just take a few minutes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader?

Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleagues.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

AMENDMENT NO. 53

(Purpose: To provide for credit union audits)

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for himself and Mr. KERREY proposes an amendment numbered 53.

Mr. EXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 470, after line 20, insert the following:

SEC. 969. AUDIT REQUIREMENT.

Section 202(a) of the Federal Credit Union Act (12 U.S.C. 1782(a)) is amended by adding at the end thereof the following new paragraph:

"(6) AUDIT REQUIREMENT.—

"(A) IN GENERAL.—Before the end of the 120-day period beginning on the date of the enactment of the FIRRE Act, and notwithstanding any provision of Federal law, the law of any State, or the constitution of any State, the Board shall prescribe, by regulation, audit standards which require an outside, independent audit of any insured credit union by a certified public accountant for any fiscal year (of such credit union)—

"(i) for which such credit union has not conducted an annual supervisory committee audit;

"(ii) for which such credit union has not received a complete and satisfactory supervisory committee audit; or

"(iii) during which such credit union has experienced persistent and serious recordkeeping deficiencies, as determined by the Board.

"(B) UNSAFE OR UNSOUND PRACTICE.—The Board may treat the failure of any insured credit union to obtain an outside, independent audit for any fiscal year for which such audit is required under subparagraph (A) as an unsafe or unsound practice within the meaning of section 206(b).".

At the end of the part of the table of contents relating to subtitle C of title IX, insert the following:

"Sec. 969. Audit requirement.".

Mr. EXON. Mr. President, the amendment I am offering, along with my colleague from Nebraska, Senator KERREY, would provide further enforcement capabilities to the National Credit Union Administration in detecting fraud and misuse of funds by federally insured credit unions. This amendment is both warranted at this time and is relevant to the measure at hand.

Mr. President, just last November, the Franklin Community Credit Union of Omaha, NE, was closed by the National Credit Union Administration which suspected that fraudulent activities were taking place at that institution.

Days later, the NCUA released the shocking news that the Franklin Community Credit Union had been maintaining a separate set of books and had received over $37 million of certificates of deposits of which the credit union held no corresponding assets. An institution that had supposedly held assets of $2½ million was closed at a cost of over $33 million to the NCUA.

The top executive of the Franklin Credit Union, Mr. Lawrence King, now faces civil and probable criminal lawsuits regarding his role in this fiasco.

As more details of this financial catastrophe were released, we learned that the Franklin Community Credit Union had not been subjected to an independent, outside audit since 1984.

The credit union had been able to forestall such audits for several years for what now are obvious reasons. In hindsight, it is clear that the NCUA should have required an outside, independent audit which may have exposed this fraudulent scheme earlier and limited the losses to the NCUA.

The amendment now before the Senate will increase the enforcement capabilities of the NCUA and will help prevent another situation such as the one we have witnessed in Omaha from taking place elsewhere in this country. The amendment requires the NCUA to obtain an outside independent audit of any credit union having serious recordkeeping deficiencies or not completing its supervisory committee audits in a satisfactory manner.

Fraud and mismanagement are two of the causes of the problem that we are now attempting to resolve. The bill before us expands our efforts against fraud in our federally insured financial institutions including credit unions. Other sections of the bill now before the Senate bolster the regulatory powers of the NCUA over its member institutions.

This amendment clearly complements those sections and is certainly relevant to our efforts today.

Mr. President, the NCUA is not opposed to this amendment, and I urge that it be adopted as part of this bill.

Mr. President, this has been cleared on both sides of the aisle. It has been incorporated in the House bill. It merely requires an audit annually for credit unions to make sure that we do not have further difficulties in this area that are starting to crop up with regard to a recent failure of a credit union in Omaha, NE.

I think it is a good amendment. I think it has been cleared on both sides. If possible, I would like to ask that the Chair recognize my colleague from Nebraska, who has some very brief remarks in this area.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, my remarks really are not all that brief.

Mr. President, today I rise to cosponsor with my colleague from Nebraska, Senator EXON, an amendment that bolsters the National Credit Union Administration's ability to require an outside audit of a credit union when that credit union's internal audit is less than satisfactory.

My interest in this amendment arises out of a situation in Omaha, where the Franklin Community Credit Union failed at the end of 1988 leaving some $35 million unaccounted for and missing. The credit union had not been subjected to a professional audit since early 1985, although credit unions are required to conduct annual audits. Lawrence E. King, Jr., the treasurer and manager of the Franklin Credit Union since 1970, faces possible civil and criminal penalties stemming from the missing funds.

We want to propose this amendment in order to avert a similar situation from being repeated in any credit union. This amendment would remove the discretion of the NCUA to allow credit unions to go unaudited for more than a year, and would require the NCUA to mandate outside audits for credit unions which meet any of the three criteria:

Either they have not conducted an audit that year; or that audit has been unsatisfactory; or their recordkeeping has been persistently and seriously deficient.

In light of Franklin Credit Union's failure, we believe that this provision would be a worthwhile addition to S. 774 and we ask that it be included in the bill.

Mr. President, the senior Senator from Nebraska, Senator EXON, not only identified this problem and brought it to my attention, but also worked very closely with Congressman PETER HOAGLAND in developing an amendment that we believe will correct the likelihood of an incident recurring in other cities of this Nation similar to the one that occurred in Omaha, NE, with the Franklin Credit Union. The failure to pay depositors would produce a monumental disaster. In the case of the credit union in the city of Omaha, depositors were fully insured and fully paid and a disaster has been averted. Nonetheless, there has been a substantial loss of faith and trust on the part of the citizens of the city of Omaha as a consequence of the failure of the NCUA to properly regulate and properly request the audits for which the statute appeared to call.

The amendment that Senator EXON has offered would correct that deficiency and simply make it mandatory to do these audits and thus I believe enable deposits to be even more protected than they were previously. I applaud the senior Senator from Nebraska for bringing this amendment forth. It is a good one. I thank the chairman and the ranking minority member for permitting this amendment to be attached to S. 774.

Mr. EXON. Mr. President, I thank my colleague and good friend from Nebraska. It is true that the primary author of this amendment is Congressman PETER HOAGLAND from the Second Congressional District in Nebraska which encompasses Omaha. He proposed the same amendment or one very similar to it in the House version of the bill that is before us.

I do not think we need a rollcall vote on this and in the interest of saving time, if we could get the endorsement from the two managers, I believe we could pass this by voice vote.

Mr. RIEGLE. I say to the Senator from Nebraska that I appreciate the work he has done on this. I think this is a valuable amendment. We have worked with him. We feel this is a useful addition to the bill and we are delighted to accept it.

Mr. GARN. Mr. President, on behalf of the minority, we are willing to accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 53) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

29-059 O-90-41 (Pt. 5)

The motion to lay on the table was agreed to.

BUDGET WAIVER

Mr. GARN. Mr. President, pursuant to section 904 of the Budget Act, I move to waive titles III and IV of the Budget Act for purposes of the bill S. 774, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

The PRESIDING OFFICER. Under the previous order, the time for debate is limited. The Senator from Michigan is recognized.

Mr. RIEGLE. I thank the Chair. I know the Senator from Ohio wants to be heard on this issue. We are faced with a requirement for a budget waiver with the plan as drafted, as it came out of the Budget Committee. I think the figure is $200 million for the current fiscal year. In light of the vote that the Senate took earlier on the alternative offered by Senator GRAHAM that I and others worked to develop, it is obvious and necessary that this budget waiver be passed, and so I rise in support of the waiver that the Senator has just brought forward, because we need that now as an integral part of implementing the bill.

I reserve the remainder of the time. I believe the time, however, is under the control of Senator GARN.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio.

Mr. METZENBAUM. Mr. President, what is the time situation, please?

The PRESIDING OFFICER. Twenty minutes evenly divided.

Mr. METZENBAUM. How much does the Senator from Michigan have?

Mr. RIEGLE. I would say, if I may, if I could have the attention of the Chair, the Senator from Ohio is in opposition to the amendment and he ought to be in control of the 10 minutes in opposition, if that is agreeable.

Mr. METZENBAUM. I thank my friend from Michigan.

The PRESIDING OFFICER. The Senator from Ohio will control the time.

Mr. METZENBAUM. Mr. President, I rise on the question whether we ought to agree to this amendment because this amendment says we ought to waive the budget bill.

Now, we do not waive the budget bill for matters of human concern, health concerns, research money, any one of a host of other areas. I heard the Senator from Utah say that there is only $200 million involved. Now, I do not know the facts about this, but I had asked some staffers who are with the Budget Committee and they told me there is something approaching $6 billion involved.

Mr. GARN. If the Senator will yield, the minimum is $200 million in fiscal year 1989. The maximum is estimated at $500 million.

Mr. METZENBAUM. How much?

Mr. GARN. Five hundred million. The reason for the range is that it depends on when the bill is passed and when they start borrowing the money. Obviously, if the bill passed today, they borrowed the money tomorrow, interest would be higher and that is where they would come up with a $500 million estimate. The longer it takes to pass the bill the amount of money goes down. So the estimate is it would be not more than $500 million, not less than $200 million but that range depends on when the bonds could be sold.

Mr. METZENBAUM. Can the Senator from Utah tell me how it occurred that when one of the staff members of the Budget Committee was asked how much is involved, I was told a figure approaching $6 billion?

Mr. GARN. I have no idea. I have the figures here. Treasury payments for bonds, REVCO interest in fiscal year 1989, 0.5, which is $500 million. So I have no idea where a $6 billion figure would come from unless they are talking about future years. We are only talking about fiscal year 1989.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum and ask that it be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I just went back to speak to three members of the staff of the Budget Committee. One of the persons on the Budget Committee was advised this morning by an analyst that the dollars involved would approach $6 billion. Another member of the staff indicated that CBO thinks the figure is $200 million to $500 million. I gather that we are not going to resolve that and really it is not determinative of this Senator's position.

I am not sure Gramm-Rudman was ever a good idea, but maybe it works in such a way that we ought to try to live with it. Here we have a situation where we are talking about billions and billions of dollars of giveway, and that really is not violating the budget because it will violate it next year, the year after, and probably for the next 30 years as well.

And the $50 billion under this proposal, the way this bill comes to the floor, is off budget. I think the budget waiver just serves to emphasize the absurdity of the position we find ourselves in. We find ourselves in the position that we are passing a bill that will strike at the Treasury for at least $50 billion, maybe indirectly another $50 billion, and we are told that it will cost a total of $239 billion by the manager of the bill $239 billion. I do not mean all in this year. I do not mean it involves that you need a budget waiver for that.

But I think that it is symbolic. I think it is symptomatic of what the whole problem is about this bill.

The whole problem about this bill has to do with the fact that we come out here and beg, borrow, and do anything we can to help some poor program whether it is in Utah, Idaho, Oklahoma, Iowa or Ohio or wherever the case may be. We come out here and we try to provide money for the sick, we try to provide money for the infirm, we try to provide money to clean up the air, and we try to provide money for a host of issues. And we cannot do it day in and day out because it violates the budget. We are told, no, that violates the budget. We come out here, and we vote no when it comes to violating the budget.

Now we are here today, and it is a pittance. It is a nothing; only $200 to $500 million, or if the other figure is right, up to $6 billion. But whatever, we should not be violating Gramm-Rudman restrictions for a savings and loan bailout. We do not do it for human service needs. We do not do it for research. We do not do it for education. We do not do it for jobs. We do not do it in areas across the whole panoply of issues with which we deal.

I say to my colleagues on the other side who are always so ready to raise budget issues, how can you go out and vote for a budget waiver on a bill that is going to cost the American people $239 billion? Although it is fair to say that the budget waiver only has to do with a much more modest amount of money, the fact is it is a budget waiver. If you believe what you say day in and day out around here when we came to you and plead with you on issues of concern for the kind of quality of life that there is in America, then you ought to vote no on a budget waiver to bail out the savings and loans institutions of this country. I reserve the remainder of my time.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. I think that was a great speech of my colleague from Ohio. I do not remember. I may be wrong. I do not remember voting for a budget waiver before, and I do not like to now. I am sure the chairman did not like to stand up and say he was going to either.

I do not care what financing plan you take, the one by Senator GRAHAM of Florida, the one by the administration or any of the alternatives. There were none of them that did not require a budget waiver of some sort or

another, not because we like it. That is just the facts of life.

I do not want to get back into my impassioned speech about bailing out depositors, but we have to. We cannot have the financial system of this country collapse, and people have runs on the banks and savings and loans like they did in the 1930's.

So I am not up here to defend budget waivers. I am a little bit puzzled after another magnificent speech about budget waivers why the Senator from Ohio just voted for a $50 billion one but now will not vote for a half-billion dollar one.

Mr. METZENBAUM. I think the question is a perfect one. If the Senator had not asked me, I was going to answer it next.

The fact is I thought there was something basically honest about what Senator GRAHAM was attempting to do. Senator GRAHAM was proposing that we put on budget the whole $50 billion that is involved. There was an ethic about that, put it on the budget. There is not an ethic about waiving the budget, the restrictions of the budget, the Graham-Rudman restrictions in this instance. I voted for that because I felt very strongly and still feel very strongly that we ought to put this item on the budget. This is gimmickry. There is a sham to say that we are going to spend $50 billion and we are going to do it over here, take it off the budget. Come on. Who are we kidding?

So Senator GRAHAM came forward with a proposal to put it on the budget. In order to do that, it was subject to a point of order. But because I felt there was a legitimacy and a rightness about his basic proposition, and the only way he could get a vote in connection with his basic proposition was if we first took care of the waiver issue. I voted to waive under those circumstances. But that was a different issue. That was because I was trying to support the position that the chairman of the committee took in the committee, and that is that if you are going to spend $50 billion out of the Treasury, if you are going to cost the taxpayers of this country that kind of money, you ought to put it right out there, and let it stand up and be counted. That is what Senator GRAHAM was attempting to do with his amendment. I supported him in his basic thrust, and I noted that the vote was a very strong one in support of his position and support of the waiver, notwithstanding the fact that the Banking Committee is solidly against any amendments, and pretty much of the leadership is voting that way as well.

I hope that answers the question.

Mr. GARN. I would suggest I was rather pleased that 50 Senators voted not to. That was half the Senators. It required 60 votes to waive and 50 Senators said no. We only needed 40 to defeat that proposal.

I would only add that I do not see the distinction of these budget waivers, particularly when the very people, the Senators speaking now for the poor, the underprivileged, the environment—I would like to throw in NASA, I want to build a space station and so on. We adopted that plan. There is no doubt in my mind it would have cost $350 million more per year. I do not want to get back into that argument. We have done it several times in the last 2 days.

There is a fundamental difference of opinion on the net effect. Those 50 Senators who voted against the other waiver said it cost more money to do it that way, including the chairman of the Senate Budget Committee and the ranking Republican on the Senate Budget Committee. I think that is a very telling argument.

I do not know whether anybody else wishes to speak. I am willing to yield back my time if the Senator from Ohio is.

Mr. METZENBAUM. I yield back the remainder of my time.

Mr. GARN. I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized.

Mr. METZENBAUM. Parliamentary inquiry. Has a rollcall been ordered in connection with the waiver motion?

The PRESIDING OFFICER. The yeas and nays have not yet been requested.

Mr. GARN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were orderd.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

AMENDMENT NO. 54

(Purpose: To provide discretionary authority for the treatment of certain deposits as deposits for insurance purposes)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 54.

Mr. NICKLES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 157, between lines 14 and 15, insert the following:

SEC. . DISCRETIONARY EXPANSION OF FDIC ASSESSMENT BASE.

(a) IN GENERAL.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding a new subsection as follows:

"(m)(1) Notwithstanding subsection (1)(5) of this section, the Board of Directors may, after consultation with the Comptroller of the Currency and the Board of Governors of the Federal Reserve System and after taking into account the economic effects of such action, find and prescribe by regulation that obligations described in such paragraph or in subparagraph (A) or (B) of such subsection are deposit liabilities.

"(2) The annual assessment rate for obligations described in paragraph (1) may be less than the assessment rate provided under section 7 of this Act."

(b) CONFORMING AMENDMENTS.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is further amended by redesignating the existing subsection "(m)" as "(n)" and redesignating the remaining subsections accordingly.

Mr. NICKLES. Mr. President, I will try to keep my statement very short. Hopefully we can move and complete this bill.

I would also like to compliment the managers for the excellent job they have done, not only in committee, but putting together a very complicated and difficult bill. I think they and their staffs have worked an unbelievable number of hours, and I compliment them for their efforts. This is not an easy undertaking. It is certainly not a chore that I think anybody relishes. I think the managers and their staffs have done a very commendable job. I congratulate them for their efforts.

Mr. President, the amendment I offer today is an amendment that calls for equity. Basically, it gives the FDIC, the Board of Directors of the FDIC, the authority to be able to assess premiums on foreign deposits. Right now we have foreign deposits estimated to be something like $350 million in U.S. banks that do not pay anything into the FDIC insurance fund on these foreign deposits. But, in effect, they have been insured.

We have had a policy in this country, dating all the way back to the Continental Illinois failure, that big banks have not been allowed to fail. We have had several large banks that have failed, but in effect we had the FDIC make all of the deposits whole in the large banks.

This is not the same case for smaller banks. Smaller banks in my State and other States that have failed have not been made whole. Actually, they have closed some of those institutions and anybody who had a deposit above the $100,000, in some cases, they were told "We are sorry," and they did not receive anything but the insured amount and whatever was settled after they foreclosed on the remaining assets. That is inequitable. It is not fair.

It is particularly not fair when you look at foreign deposits that have not paid one dime, not one thin dime of money into FDIC to insure these de-

posits. When you see a large bank like Continental Illinois you are looking at a $69 billion institution. A significant portion of that was in foreign deposits. All those foreign deposits were made whole, but yet they did not contribute anything to the FDIC fund.

The first thing that this amendment does not do—it does not mandate that FDIC assess a premium on all foreign deposits.

I have introduced legislation [S. 360] that would do that. I would like to see that bill passed.

I understand some of the concerns that have been raised by Senator GARN and his staff and others, saying "We do not want to scare off foreign deposits." I talked to the chairman of FDIC and he said, "If we assess them at the increased premium rate of 15 basis points, we might have an exodus of foreign capital and that could be quite damaging to the major banks and maybe damaging to the economy of the United States."

I do not want that to happen. So I altered the amendment.

The amendment that we have before us just provides discretion for the FDIC after consulting with the Comptroller of the Currency, after consulting with the Federal Reserve about any economic impact that it would have if we did assess foreign deposits. If they determined that it would be wise and to the advantage of the fund and to the advantage of the economy of the country to assess those deposits, then they could do so. Unless we change the law, they can never assess foreign deposits.

So, the inequity that I stated earlier where we assess 100 percent of domestic deposits and assess nothing on foreign deposits, even though in effect we are guaranteeing those deposits, would remain.

I hope that we could change that. This amendment would give discretion to FDIC to change that.

I hope they would take a look at the situation, and if they agree that it would not have any detrimental impact on the economy, they would have an assessment.

We even gave FDIC the authority in this amendment to where if they so desired they could have the assessment. It would not have to be 15 basis points. They could do something less than that if they were concerned that 15 basis points might be detrimental to the economy or cause an exodus of capital.

So again, we are not dictating, we are not mandating; we are simply providing that authority, if this amendment should pass.

I might also mention that once before the Senate voted on this provision, a similar provision, in 1986. Senator Proxmire and several others spoke in favor of assessing foreign deposits. That amendment was agreed to, 63 to 32. The Senate was in favor of assessing foreign deposits by a vote in 1986 of 63 to 32.

I might also just read one comment that our former colleague and former chairman of the Banking Committee stated in the floor debate which was on September 19, 1986. He said, and I quote, and this is Senator Proxmire:

> In effect, foreign depositors in large U.S. banks enjoy the benefits of deposit insurance without having to pay for it. Instead, the cost is shifted to the FDIC and ultimately to the rest of the banking industry and their customers. Thus, smaller and medium-sized banks are forced to pay for the excesses of the largest banks.

He says:

> Let me repeat that. The smaller and medium-sized banks are forced to pay for the excesses of the largest banks. This works to the disadvantage of about 98 percent of banks in this country. This built-in discrimination against smaller banks will become even worse now that we have firmly established the precedent that will not allow large banks to fail. Large banks now have de facto 100 percent Federal deposit insurance on all their deposits, including foreign deposits, while the depositors in small banks are at risk if their deposits exceed $100,000. This difference gives a substantial and unjustified competitive advantage to the big money center banks.

I think Senator Proxmire was correct in that statement.

Again, this amendment does not go as far as we did in 1986. What we are doing in this is simply giving discretion to the FDIC to assess foreign deposits, not a dictate, not a mandate.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, let me say at the outset that I appreciate the kind comments of the Senator from Oklahoma and the care and thought that he has given this amendment.

I rise in opposition to the amendment. As he knows, the administration bill in title X called for the Secretary of the Treasury in conjunction with the bank regulators and the OMB to carry out a study of various deposit insurance issues and among the issues to be evaluated and reported on to the Congress within 18 months is whether this very question should be answered in the affirmative, whether premiums should be paid on foreign deposits.

The committee bill in what is our title XIII keeps the administration's proposal for a study as to whether or not these insurance premiums should be charged on foreign deposits.

I am told that the administration opposes the amendment as well. We have checked.

I know the Senator has modified this to leave the discretion with the regulator, the FDIC. But I have just been informed by Senator GARN that the administration would hold to the view that we ought to keep it the way we have it in the bill.

But let me just make two or three points here that I think are important to have in this debate.

I am sympathetic to the fact that 6,000 independent community banks have to pay premiums on all $300 billion of their deposits, while the money centered banks are not required to pay premiums on their foreign deposits.

Although foreign depositors did indirectly benefit from the FDIC's action in the Continental-Illinois case, we have to also make clear the fact that these foreign deposits are not presently insured. There is not an explicit insurance guarantee.

If we are going to charge the large banks premiums on their foreign deposits, then we in all fairness ought to officially insure those deposits.

There may well be good public policy reasons for not doing so or for doing so.

But I think that is something where the FDIC and others are going to have to very carefully assess what the risks to the insurance fund might be with that extension, and I think those risks are different in profile than what we have with onshore risks.

Also the large money centered banks contend that they do not want their foreign deposits insured, because paying deposit premiums of such deposits would make them uncompetitive with their foreign bank competitors in the foreign market.

I think it would be much better to have these issues studied as part of the deposit insurance study that we have set forth in the bill, and then we could have hearings on this issue once the studies are completed.

But I think to just turn this thing over willy-nilly, this kind of a policy decision of the magnitude where there are important foreign policy implications, is something that we ought not to do. We ought to bring that issue back here, debate it in this setting.

As the Senator points out, we have had one prior vote on this, but it also shows that there was a substantial division of opinion at that particular time, and I would assume that it probably did not split on a party line basis; it probably was a bipartisan vote on both sides.

So I think we have responded to the concern that the Senator has in a different way, and that is by initiating the study and bringing it back here later for decision, and it would be my hope that we could stay with that.

I know that the ranking minority member wants to be heard as well.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. GARN. Mr. President, I rise in opposition to the amendment and I do not enjoy opposing my good friend from Oklahoma.

Just a few years ago, as I told him privately, I was on Bill Proxmire's side. It sounded absolutely fair to me that these foreign deposits should pay their share of premiums even though they were not actually insured deposits but some would imply that because of Continental Illinois they in effect are.

However, I think it is interesting that the market does not seem to indicate that. They believe they are not risk-free. The yields required by investors on uninsured 3-month CD's issued by large banks exceeded the yields on 3-month U.S. T-bills by an average of 101 basis points in 1987 and by 96 basis points in 1988.

So the market is at least saying they think there is more risk in these types of deposits.

Again it sounds fair that this ought to be done, but in the time I have been in the Senate, particularly on the Senate Banking Committee, over 15 years, the issue and the policies that have changed so dramatically that absolutely amaze me is the internationalization of the capital markets.

When I first got here, we used to argue about the savings and loan across the street, the credit union a couple of blocks down, and domestic competition. The entire 15 years I have been in the Senate that has been the focus of debate among the various players, the some 15,000 institutions in this country.

What has not been noticed is the tremendous outflow of funds, part of it due to the trade deficit. But the internationalization of the capital markets is absolutely remarkable.

About 25 years ago, it is amazing that 7 out of 10 of the biggest banks in the world were U.S. banks. Today, 10 out of 10 of the biggest banks in the world are Japanese banks. And Citicorp, depending on when you look at it, runs about 17th to 23d. We have dropped dramatically in overseas competition.

We hear all the time on the floor about the problems of the trade deficit. We have not looked at the money markets. We have not looked at the securities funds to find out what has happened in Nomura and other big Japanese firms. If we think the automobile invasion and TV's and wristwatches was tremendous, the capital markets are shifting overseas and with the advent of computers and being able to transfer funds in seconds by electronic means, those markets have changed very dramatically.

I do not see that this would help the small banks at all. All it would do is hurt our international competition.

I also think that the amendment is irrelevant to this bill because it has nothing to do with FSLIC. It is controversial. I think it could be addressed separately. I do not think it would increase collections at all. That is why I say I do not think it would benefit the small banks because the deposits would not be in U.S. banks.

The spreads are so thin and the competition so great in international markets that the deposits would leave the U.S. banks. Overseas branches of American banks raise between two-thirds and three-fourths of their funds in the inner bank deposit market, which is a counterpart to the U.S. Federal funds market. The market is highly competitive and the spread between the rates at which banks bid for and offer deposits is usually very, very narrow.

No major industrialized country today insures or assesses inner bank deposits in its bank's foreign branches. Thus, assessing premiums on foreign branch deposits would raise the cost of doing business to American banks only, while leaving foreign bank costs unaffected.

So that is the major reason I oppose this. I really think it hurts our international banking, with no benefit to the small banks. I do believe that the problem is not to do with premiums anyway. Really, after having been involved in the middle of this for years, all of my banks in Utah are small banks. There is not a big bank by anybody's definition in my State. I have heard the arguments before and I think it makes them feel good.

But what the real problem is is not the issue of premiums. If you tax or add premiums on foreign deposits, even if they did not take the deposits out, it is not going to reduce the premiums on the other FDIC members. It simply is not going to take place.

What they are concerned about is what they think is the unfairness that big banks are too big to fail and that their depositors over $100,000 are protected even beyond the insurance amounts, but a little bank can just be closed down and they are not protected. I think that is the fundamental issue and it is coming out in this form.

I certainly would recommend to the chairman—it is not my right to do so—that we hold a hearing on this particular issue of how the bank failures are handled by the FDIC relative to size and look at that issue and see if there is some changes we could make. I personally do not think anybody should be protected over $100,000. I think that leads to problems and people should know that if you put your savings in any bank, big or small, up to $100,000 you are going to be guaranteed by the full faith and credit of this country, but if you have $101,000 or $500,000 or whatever it is over that amount, you better recognize that you have the possibility of losing that. I do not think that is our responsibility.

I do not disagree on the issue with the small banks. I think that is an issue we ought to address. But I do not think it solves the problem by giving even the FDIC the right. I think it sends the wrong signal. I think you could see an outflow of deposits. And if there is anything we need it is an inflow of deposits, not an outflow of all the big Japanese and English and European banks.

Mr. President, I reserve the remainder of my time.

Mr. NICKLES. Mr. President, I thank Senator GARN for his comments. I would encourage the Banking Committee—I see the Banking Committee chairman is now gone—but I would very much like to participate in a hearing before the Banking Committee and with the FDIC and others in talking about bank closures and how they are handled and the differences between large and small banks.

I believe Penn Square is the largest bank that was actually closed where depositors were not made whole. I am reading from an article that I ask unanimous consent to have printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From American Banker, Feb. 19, 1988]

THE MAJOR BANKS HAVE PAID TOO LITTLE FOR FULL FDIC COVERAGE

(By Irvine H. Sprague)

Congressman Gerald D. Kleczka, D-Wis. on Thursday introduced legislation to have the Federal Deposit Insurance Corp. assess premiums on the foreign deposits held by U.S. banks. As a member of the House Banking Committee, Mr. Kleczka should get a hearing. At stake is about $300 million in assessments against a handful of mega-banks.

The proposed legislation revives an issue that has been lurking in the background for years and addresses an effort I have carried out with notable lack of success since the failure of Continental Illinois National Bank and Trust Company of Chicago in 1984. Sen. William Proxmire, D-Wis. joined the effort at that time and had legislation drafted similar to Mr. Kleczka's bill.

The largest banks in the United States simply do not pay their fair share for the protection of FDIC insurance. Eight pay on less than half of their deposits. The other 14,000 banks across the nation pay on 100% of theirs.

To rub in the discrepancy, the biggies who pay on only a fraction of their deposits are all in the "TBTF" category; too big to fall. There is no way our government will allow any of the largest banks to go under. Not only are they exempt from much of the assessment costs, they are de facto guaranteed that all of the deposits are protected.

In 1984, I was cautioned by fellow FDIC board members not to rock the boat on the assessment issue: "Why do this?" I was asked. "Nothing is going to happen, and you are making the big banks mad at us."

In 1986, I outlined the unfair assessment system in my book, "Bailout," and since then I have pursued the subject in speeches to community bankers in Minnesota, Califorina, Florida, Georgia, Iowa, and Illinois. In every instance, the response was strong support for change.

This support was evidenced in 1986 during the closing days of the 99th Congress when

the Senate voted 63 to 32 to assess all deposits, foreign and domestic alike. The reform was misplaced in the budget bill and it disappeared in conference.

FDIC assessments can be used only by the FDIC and have nothing whatever to do with general government. However, the administration counts FDIC profit or loss in its consolidated budget account. Thus more FDIC profits do reduce the reported budget deficit. But the fact is, these dollars have absolutely no impact on government spending or the federal budget.

FDIC Chairman L. William Seidman has noted the phoniness of the budget issue. He said that assessing foreign deposits raises several complicated issues and that the appropriate forum to consider them is the House and Senate banking committees.

The hearings should be volatile. The community bankers are vocal about getting the short end of the stick. This is a guaranteed winning issue for any congressman in 1988. How often do you find an issue that is fair, right, long overdue, and also popular with your constituents? The congressmen need only balance the financial support from and the pressures by a dozen big city institutions against the votes of their local constituents. The choice is easy.

The distinction between foreign and domestic deposits dates back to 1933 when the FDIC was created. The law states that assessments will be made on "domestic deposits." The reasons for this language are lost to history, but it certainly was not because of any dependency on foreign deposits in 1933.

Before Continental there was no real reason to question the lack of payment for the protection of foreign deposits. After all, we figured that it was theoretically possible for a big bank to fail and that the uninsured foreign deposits would be at risk. Four years earlier, we had bailed out First Pennsylvania, but foreign deposits were not a major factor.

Continental caused me to reconsider the assessment rules. The more the system is examined, the clearer it becomes that it is patently unfair.

The Continental bailout protected the entire $69 billion holding company structure: the book and off-book liabilities, the insured and uninsured depositors, foreign and domestic. At the time of the failure, there was just under $3 billion in insured domestic deposits, on which only $6.5 million in assessments had been paid.

The message was clear. Big banks with foreign deposits pay on only a fraction of their total deposits, yet all of the deposits are protected. The Continental cost appears to have leveled off at about $1.75 billion, and in the process all banks have lost the assessment rebate they had been receiving for more than 50 years.

The accompanying chart shows that eight institutions are paying on 50% or less of their deposits, while nearly all other banks in America pay on 100%. The table reports on the 10 institutions that had the most foreign deposits in 1987.

* * * * *

Citicorp, the unchallenged leader in American banking, with over $200 billion in holding company assets, paid $34 million to the FDIC in 1987, the assessment based on just 38% of its deposits. At the same time, BankAmerica, less than half as large as Citicorp, paid $42 million, the assessment based on 69% of its deposits.

Does anyone believe that either Citicorp or BankAmerica would be allowed to fail? The answer, of course, is no. So we have a situation in which two of America's megabanks, both receiving the same kind of protection, pay vastly different rates.

Since Mr. Kleczka's proposed change in law will affect only a handful of institutions, the lobby is narrowly focused. The base argument against the legislation is that the imposition of a one-twelfth of 1% charge on foreign deposits will make the megabanks noncompetitive in foreign markets.

WHO PAYS LEAST FOR FDIC PROTECTION?

[Ten institutions with most foreign deposits in 1987, in billions of dollars]

	Assets Dec. 31, 1987	Domestic deposits Sept. 30, 1987	Foreign deposits Sept. 30, 1987	FDIC 1987 assessment	Percent of deposits on which assessment paid
Morgan Guaranty	$75	$15	$34	$11	31
Bankers Trust	57	11	23	9	32
Citicorp	204	40	66	34	38
Republic National	19	5	8	3	39
First Chicago	44	12	17	9	41
Chase Manhattan	99	27	36	24	43
Continental Illinois	32	8	10	7	44
Manufacturers Hanover	73	23	23	18	50
Chemical	78	26	13	20	67
BankAmerica	93	50	23	42	69

Source: Federal Deposit Insurance Corporation.

This kind of reasoning would be analogous to Lee Iacocca arguing that Chrysler should not have to pay taxes so it could better compete with Toyota.

The lobbyists are chasing their tails with this argument. Either the margin is so low that it is immaterial, or it is so high that it is intolerable for these banks to maintain such an advantage over their American rivals.

The Citicorp lobbyist, Bob Barnett, a former FDIC chairman and savvy politician came up with a new twist in talking to Congressman Kleczka. Changing the assessment would hurt foreign trade, he argued. Trade is a buzzword in this election year, so I guess Mr. Barnett decided to throw it into the pot, relevant or not.

The words used to describe the deals are different. But the total protection for all depositors exists whether the bank is given open bank assistance, bailed out, sold, or handled in what is called a purchase and assumption transaction. The uninsured depositors are at risk only in a payoff, whether direct or through a deposit transfer, when the bank is closed and the insured depositors receive their money.

In fact, there has been only one closure and payoff of a bank over $200 million in the entire history of the FDIC: Penn Square. In addition, there have been five payoffs over $100 million and eight more over $50 million. Only in these cases was there any significant loss to depositors.

My original proposal was to assess all deposits and use the added income to reduce the basic rate for all banks. Mr. Kleczka follows this approach with a reduction of the rate from one-twelfth to one-fourteenth of 1%.

Today, with the FDIC operating with a record low surplus in 1987 of $50 million, it would be more prudent to use the added income to build up the FDIC fund.

Mr. NICKLES. The article was in the American Banker on February 19, 1988. The title is "The Major Banks Have Paid Too Little For Full FDIC Coverage." It is written by Irvine Sprague. He mentions Penn Square was the only bank with over $200 million that actually closed and had a payoff. So those people that had over $100,000 in the bank did not get any more than $100,000, except until after they foreclosed on assets. And it really set off a very negative chain in the economy of Oklahoma.

I think the FDIC learned that was not the way to close a bank. It is one of the reasons why, when Continental Illinois failed, they said, "We can't afford to do that because it would pull down a lot of other banks."

Actually, the way they closed Penn Square contributed greatly to the failure of the Continental Illinois Bank. I think the FDIC and others were concerned about how Continental Illinois, if they were closed in a similar fashion, if they only did make depositors good for $100,000, what might happen. So what they did, they guaranteed the deposits of $69 billion, including a lot of foreign deposits.

I think, likewise, when we have seen recent failures in MCorp or Republic Bank, large banks, multibillion-dollar banks in Texas, they made the depositors whole. They did not want to start a run.

And so I think the FDIC knew what they were doing. I do not fault them for handling it in that manner. I think they were trying to minimize the loss and minimize the exposure to the FDIC. So I think that is important.

I have a couple of more comments. One, Senator GARN mentioned an exodus of foreign capital. I certainly do not want to see an exodus of foreign capital. There is something in excess of $350 billion worth of foreign capital in U.S. banks. I do not want to do anything to cause that exodus of capital. That is one of the reasons I made it discretionary.

I have talked to Chairman Seidman. He said if we put on 15 basis points, we might see an exodus of foreign capital. I do not want that to happen, so I made it discretionary.

Certainly, as someone who is in charge of regulating and saving failed banks, I think the FDIC would be in a good position. Also in our amendment we say that he would consult with the Comptroller of the Currency and also with the Director of the Federal Reserve Board. So they would have input and so they would not be making any rash statements. They would not commit to a 15-basis points premium assessment on all foreign deposits.

My guess is they would study it which, incidentally, I might tell the chairman, they committed to study it 3 years ago. I think the FDIC did a small study, but we have not seen much results from that. My guess is that they would look at it and maybe they would come up with some type of

an assessment and maybe they would not.

I have enough confidence in the FDIC that I think this amendment would be a good amendment to go forward. Right now, they could not do it, even if you had the Chairman of the Federal Reserve and the Comptroller say that it would make good sense to do so, they do not have the authority. Right now the statute prohibits them from assessing foreign deposits.

This statute goes back 50 years. When it was written in 1933, foreign deposits were prohibited from being assessed. Certainly, foreign deposits were not a significant item 50 years ago.

Mr. RIEGLE. Will the Senator yield on that point?

Mr. NICKLES. I am happy to yield.

Mr. RIEGLE. The Senator has seen a lot of issues down the track and I have had a chance to see quite a number, too, over the years. Every time you give discretion away to an executive bureaucracy, and the discretion or decisionmaking authority now resides here, it may or may not be exercised the way it ought to be exercised or the way you would end up feeling satisfied with later.

A long-established decision authority that resides here, and properly, I think is here for a reason. When we just give that away and hand it over to somebody else down in the bowels of that bureaucracy, I am not sure that it is such a wise course of action to take.

I think there is a big burden of proof that ought to be there against us saying: Look, even though this has been a power we exercise, we should not do it. We cannot do it. We will not do it. We are not up to it. And let us just hand it off to somebody else.

Let me say one other thing. My colleague has seen a lot of regulators come and go and so have I, and sometimes we get a good one. A lot of times we do not. It has nothing to do with party.

I feel more confident in the end, on issues of consequence, where we have primacy, to want to exercise our judgment and not hand it off to somebody else.

Mr. NICKLES. I appreciate the Senator's comments. I would say, generally, I would be in agreement. But I also will tell my colleagues that less than 3 years ago we passed this amendment almost by a 2-to-1 vote. I think it was 63 to 32.

Senator Proxmire, who was the ranking member in September 1986, was very supportive of this effort and I think it was a good effort.

Mr. GARN. If the Senator will yield, I would simply say it was done in my absence. I was occupied at Georgetown Hospital at the time or I would have been here to at least cut it down to 60 to 40 or something.

Mr. NICKLES. I am sure that is the case with my friend from Utah, if he feels that way. But possibly at that time he had the earlier inclination to support this effort. I am not sure.

But I do think it was a good measure, a measure that did pass by a large margin in the Senate a couple of years ago. Even this approach is a good approach, although it does not go quite as far. But I think it is the right thing to do, the equitable thing to do. It would be supported by a strong majority of the bankers throughout the country.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. RIEGLE. Mr. President, the way that came about, and it is hard to recall something that far back without examining the record, but in checking with colleagues here, my recollection is, and they confirm it, that the way that came about is it came out of budget reconciliation.

People were shopping for revenue, and this looked like a way to pick up a piece. This is all part of the blue smoke and mirrors. It is like waste, fraud, and abuse, and some of the other things we have seen in the past. That is, you need a dollar figure. Well, let us get it this way.

When that was examined in the cold light of day, it was found not to be a workable way to do it and, in fact, while that one vote was taken, it was later undone.

So that is how it originated. It did not originate as a policy initiative within the Banking Committee itself, insofar as I understand it, but rather was born out of this sort of strange budget reconciliation process.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I congratulate the chairman and ranking member of the Senate Banking Committee for their expert handling of this issue. They have addressed the complex issues and have made the tough decisions.

Unfortunately, there has been an oversight, in my opinion. That oversight is the failure to recognize that the smaller community banks will bear the brunt of the increased premium assessment. Small community banks, which rely almost exclusively on the basic business of deposits and loans from their neighbors, have little or no flexibility on how to absorb these additional costs.

This amendment, which I cosponsor with Senator NICKLES, gives the FDIC the authority to assess U.S. banks for their deposits in foreign branches. It gives the FDIC the ability to balance the effect of the increased insurance premiums. This balance is possible if the chairman elects to broaden the base on which the premiums will be assessed.

I am not arguing about the amount of the assessment. I only ask for a chance to distribute the costs of that assessment more fairly.

I believe that the assessment should include those banks which now pay proportionately little into the deposit insurance fund.

There are two phrases which are overused more than any others when banking legislation comes before the Senate. One of those phrases is "Give us a level playing field," and the other is "This is simply a matter of equity."

We have heard these statements in relation to this bill. I am sure they are aptly applied, for the most part.

We have forgotten, however, about a significant part of the Industry and we have denied it equity. We have excluded them from the level playing field. That portion of the industry is represented by small rural banks.

The increased insurance premium required in this bill, 12 cents per $100 upon enactment and 15 cents in 1991, unfairly perpetuates the inequities that now favor large commercial banks.

The small bank pays an insurance premium on all of its deposits—every dime. Yes, the bank's depositors will be covered if it should be closed by the Federal Deposit Insurance Corporation. That is, for all of its deposits up to $100,000 per account.

The big banks, however—primarily the biggest 150 banks in the country—do not pay an assessment on the majority of their deposits. In fact, they pay assessments on only 38 percent of their obligations.

Community banks, on the other hand, pay insurance assessments on about 88 percent of their liabilities.

The large regional banks also have the benefit of knowing that their depositors will be secure in the event of failure. Even those deposits which exceed $100,000 and those which are held in foreign countries can be assured of that.

Perhaps even more significantly, big banks are much more likely to receive FDIC assistance, instead of being closed or merged, because they are too big to fail.

FDIC is directed to implement the alternative of least costs. I suspect that the FDIC includes the potential costs associated with the foreign deposits of those banks when deciding how to resolve problems with the big banks.

This is blatantly unfair.

Mr. President, there are 10,500 community bankers across the country with assets of less than $100 million. These bankers are sprinkled in every State, and serve a large number of our constituents.

Only 150 U.S. banks have deposits in foreign branches. And the largest share of these will be held by only a dozen banks.

I know that the opposition will argue eloquently about international competitiveness. They will argue that the United States cannot afford to allow the Japanese and European banks to dominate the international market place.

That is well and fine. But it gripes me that the U.S. Senate would just roll over for these banks. They are big enough to take care of themselves. At least they are better equipped than the small rural banks which comprise the very fabric of our small and rural communities.

I thank the Senator from Oklahoma for taking the lead on this amendment and am pleased to join him in this effort. I certainly hope the Senate will support it.

Mr. RIEGLE. Mr. President, I was almost persuaded. That was such a compelling statement by the Senator from Iowa that it almost turned me around on the amendment.

Mr. President, I would indicate to the Senator from New York [Mr. D'AMATO] I think there are 4 minutes remaining or thereabouts.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. If I am in control of time I yield to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Thank you, Mr. President.

Mr. President, let me suggest that it is absolutely, totally fallacious to suggest that the taxing—and that is exactly what placing the FDIC premium would be—placing a tax on offshore deposits is in any way going to inure to the benefit of the Treasury, the financing of this plan, or to the strengthening of the competition that should exist. It is simply not going to take place.

Let me tell you what will take place. Today the United States is in a tremendous competition as it relates to our financial institutions. We have the markets which are international in scope. We have London, we have Tokyo, we have the competition coming in throughout the world.

And if we place a premium on these offshore deposits, we will ensure the flow of these dollars into the other international sectors.

We are not going to enhance competition between the smaller banks, the smaller institutions and the large money center banks. That is not going to be accomplished.

We are not going to raise any dollars as it relates to helping the FDIC meet its insurance obligations. But, indeed, we will see a flow of revenues from our offshore institutions, from our money center banks. We will become uncompetitive. And let me suggest to you that the premiums that the FDIC will be placing on those offshore deposits will be more than enough to see to it that we cannot compete with the Japanese, with the English, and with others.

So, Mr. President, while it is good rhetoric for domestic political consumption, I suggest to you that no one can say that Senator D'AMATO has been a friend of the big banks. Because I have taken them on when I think they have gone far afield, when they have crossed that line, when they have engaged in activities or seek to engage in activities that will place at risk the taxpayers' money. I have suggested that if they are going to get into other areas of competition that there be strong firewalls.

But fair is fair. To place them at a competitive disadvantage in the world market is absolutely wrong.

It may make great sense to the small, independent banker who says, "Well, this is one way of getting at big banks," do not do it that way. You are going to cut down on their earnings. You are going to cut down on the ability for them to compete in the international market. It is going to weaken their overall competitiveness, Mr. President, and it simply does not make sense.

This amendment is a mischievous amendment which will not help us in the present crisis. It will not ensure financial stability, but will make us less competitive and it should be defeated.

Mr. President, I appreciate the concerns expressed by my colleague from Oklahoma. New York has many small banks also. However, I join my colleagues Senators RIEGLE and GARN in opposition to this amendment for many additional reasons.

This amendment is based on some erroneous assumptions. It assumes that premiums obtained on foreign deposits will allow reduction in small bank premiums. This is wrong because the cost of insurance will make U.S. banks noncompetitive in foreign markets and foreign deposits of U.S. banks will shrink; therefore we will have a much reduced foreign deposit base to assess and any revenue gain is a phantom.

Senator NICKLES argues that large banks get a free ride. This is wrong because large banks have many deposits over the insurance limit of $100,000, however they still pay insurance premiums on all domestic deposits even though cash in accounts of more than $100,000 is not covered by deposit insurance.

The arguments of the Senator from Oklahoma implies that large banks pose the same risk to the insurance fund as small banks. This is wrong because the FDIC has found that small bank failures are more costly: 33 percent of the assets of failed small banks are worthless while banks with more than $1 billion in assets have had only 5 to 11 percent of bad assets when they have failed.

In general, Mr. President, no real benefit will accrue from assessing the foreign deposits of U.S. banks. Commercial banks, especially small banks, already have a competitive advantage over their thrift competitors by having a substantially lower deposit premium for the next decade.

Futhermore, foreign deposits are not like domestic deposits. Overseas branches of U.S. banks raise between two-thirds and three-fourths of their funds in the interbank market, a highly liquid, highly competitive, multicurrency market. The profit margins, or "spreads," on these funds are very narrow. Deposit insurance assessment would impair the competitive position of U.S. banks in the interbank market.

I would like to address one more argument. It is said that Continental Illinois was too big to fail. But the real reason Continental Illinois was bailed out was that had it not been, over 200 smaller banks which had money on deposit at Continental would have gone down with it. Mr. President, the small banks cannot have it both ways.

U.S. banks have been losing market share since 1983; only one of the top 25 banks in the world is a U.S. bank—further erosion is unthinkable.

This issue has been slated for study; it will be fully aired pursuant to the dictates of S. 774. I see no problem with hearings on this issue. In particular, I would welcome hearings, as suggested by Senator GARN, on FDIC treatment of smaller banks in resolutions.

Therefore, I restate my opposition to the amendment. Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. RIEGLE. Mr. President, to my knowledge there are no other requests for time. I think we have finished the debate on this issue. I know the unanimous-consent agreement calls for the vote sequence to begin, I believe, at 8:15. So, not being aware of any other time requests, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

Mr. GARN. Mr. President, all time having expired on the Nickles amendment, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on agreeing to the motion of the Senator from Utah to waive titles III and IV of the Congressional Budget Act of 1974 with respect to the pending bill. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 88, nays 11, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—88

Adams	Garn	Moynihan
Armstrong	Glenn	Murkowski
Baucus	Gorton	Nickles
Bentsen	Graham	Nunn
Biden	Gramm	Packwood
Bingaman	Hatch	Pell
Bond	Hatfield	Pressler
Boren	Heflin	Pryor
Boschwitz	Heinz	Reid
Breaux	Hollings	Riegle
Bryan	Inouye	Robb
Burdick	Jeffords	Rockefeller
Burns	Johnston	Roth
Byrd	Kassebaum	Rudman
Chafee	Kasten	Sanford
Coats	Kennedy	Sarbanes
Cochran	Kohl	Sasser
Cohen	Lautenberg	Shelby
Cranston	Leahy	Simon
D'Amato	Levin	Simpson
Danforth	Lieberman	Specter
Daschle	Lott	Stevens
DeConcini	Lugar	Symms
Dixon	Mack	Thurmond
Dodd	Matsunaga	Wallop
Dole	McCain	Warner
Domenici	McClure	Wilson
Exon	McConnell	Wirth
Ford	Mikulski	
Fowler	Mitchell	

NAYS—11

Bradley	Grassley	Kerrey
Bumpers	Harkin	Kerry
Conrad	Helms	Metzenbaum
Durenberger	Humphrey	

NOT VOTING—1

Gore

So the motion was agreed to.

The PRESIDING OFFICER. On this vote the yeas are 88, the nays are 11. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion to waive is agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, for the benefit of Senators this will be the last rollcall vote tonight.

We will come into session tomorrow morning at 8:30, and be on the bill at 9 with the possibility of rollcall votes shortly thereafter if we can arrange for an amendment to be offered this evening to begin at 9 o'clock in the morning.

So Senators should be aware that rollcall votes could occur tomorrow morning as early as 9:30.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion by the Senator from Utah to lay on the table the amendment of the Senator from Oklahoma [Mr. NICKLES]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 62, nays 37, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—62

Adams	Hatch	Mitchell
Bentsen	Hatfield	Moynihan
Biden	Heflin	Murkowski
Bond	Heinz	Pell
Bradley	Inouye	Reid
Breaux	Kassebaum	Riegle
Bryan	Kennedy	Robb
Chafee	Kerrey	Roth
Coats	Kerry	Rudman
Cochran	Kohl	Sanford
Cohen	Lautenberg	Sarbanes
Cranston	Leahy	Shelby
D'Amato	Lieberman	Simon
Danforth	Lott	Simpson
Daschle	Lugar	Specter
Dixon	Mack	Stevens
Dodd	Matsunaga	Thurmond
Garn	McCain	Wallop
Glenn	McConnell	Wilson
Graham	Metzenbaum	Wirth
Gramm	Mikulski	

NAYS—37

Armstrong	Durenberger	Levin
Baucus	Exon	McClure
Bingaman	Ford	Nickles
Boren	Fowler	Nunn
Boschwitz	Gorton	Packwood
Bumpers	Grassley	Pressler
Burdick	Harkin	Pryor
Burns	Helms	Rockefeller
Byrd	Hollings	Sasser
Conrad	Humphrey	Symms
DeConcini	Jeffords	Warner
Dole	Johnston	
Domenici	Kasten	

NOT VOTING—1

Gore

So the motion to lay on the table was agreed to.0

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr PACKWOOD. Mr. President, I would like to call attention to an article in the Wall Street Journal entitled, "Tax Act of 1986 Proves a Winner: It Spawns a Lot of Rich Losers." The Wall Street Journal provides numerous examples of how tax reformed has worked.

The Tax Reform Act has not, as many naysayers expected, caused the real estate market to collapse or investment money to disappear. To the contrary, the real estate market is still strong and funds are still available for investment. As the author, Hilary Stout, notes, real estate and investment decisions are now being made on the basis of how best to produce income instead of how best to avoid taxes. I might mention that the article makes reference to the public perception that tax reform did not do what was expected. I believe this perception is wrong. Tax reform has worked, it is working, and I'm sure will continue to perform as expected. I urge all my colleagues to read the Wall Street Journal article of April 17, 1989.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

DAY OF RECKONING: TAX ACT OF 1986 PROVES A WINNER: IT SPAWNS A LOT OF RICH LOSERS

(By Hilary Stout)

WASHINGTON.—Being a millionaire isn't what it used to be. Now, you have to pay taxes.

For years, the tax code allowed some of the nation's wealthiest people to shelter their income from federal clutches. But this year. David Bradt, a tax partner at Arthur Anderson & Co. here is watching some well-heeled clients write some very large checks.

"It's virtually impossible," he says, "to eliminate tax liability."

Chalk it up the Tax Return Act of 1986. Today—tax day—millions of Americans feel the first full effects of the nation's latest, two-year experiment in tax revision. The new rules have mostly taken effect, and new tax rates were in place in 1988 for their first full year.

The experiment is working. The law's overriding purpose was to make the tax system fairer. Although the effects are uneven and the full impact is uncertain, the burdens are clearly more evenly balanced, and among individuals, at least, winners vastly outnumber losers.

WIDE-RANGING EFFECTS

This morning, while some millionaires write their first checks in years to the Internal Revenue Service, millions of the poor, now removed from the tax rolls, aren't filing returns at all. Tax reform is diverting billions from wastefull tax-avoidance schemes to presumably productive investments. And the law is altering the borrowing and saving habits of families across an array of income levels, mostly to the benefit of the national economy.

In one glaring respect, however, the new code has failed. Americans still consider the federal income tax system the least fair of all taxes, a perception fostered by years of publicity about millionaires and multinational corporations getting off scot-free. And to varying degrees, the changes have wrought some potentially negative effects-encouraging people to borrow against their home equity, for instance, and to spend

money they once saved in Individual Retirement Accounts.

In addition, the benefits aren't so clearcut for some middle-income families. And although it's now nearly impossible for the rich to avoid taxes, a few still succeed.

But one thing is certain: Tax revision has affected nearly every American.

FINDING A DEDUCTION

"It changed the way we lived, the things we had," says Wayne Faust, a 29-year-old auto-parts salesman in Charlotte, N.C. He and his wife, a secretary, have all but quit using credit cards because the law now limits how much interest they can deduct; soon, they won't be able to deduct any installment-debt interest. They also bought a house. "We had to have a tax deduction somewhere," he explains.

Recently few deductions are left. In its most sweeping change, the tax law restricted deductions for "passive losses" in ventures in which investors didn't actively participate—deductions that total $98 billion in 1986 alone. It eliminated the tax break for long-term capital gains. And in addition to wiping out deductions for nearly all consumer interest payments, it reduced the tax benefits of IRA's.

What taxpayers got in return was lower rates—a stated maximum of 28% (but 33% for many high-income taxpayers)—compared with the former top rate of 50%. And the law not only preserved but expanded the so-called standard deduction and the personal exemption—benefits available to rank-and-file taxpayers who don't itemize deductions.

INCOME TRANSFERS

The changes have left the economy awash in income transfers. Velteen McGhee of Memphis, Tenn., will buy clothes this spring, thanks to a $500 refund check; in the year before tax revision, the Catholic-charities worker got back all of $3. As a working parent earning less than $18,000 a year, she qualifies for a now-expanded earned-income tax credit.

In large part, Ms. McGhee can thank the likes of John and Marilyn Sothras of San Diego, who were involved in about 30 tax-reducing limited partnerships when the tax laws were revised. In 1986, they paid the IRS a scant $903 on income of $101,640. This year, they could deduct only 40% of their passive losses—and their tax bill leaped to $10,625.

"It devastated us," Mrs. Sothras says. When such losses are phased out altogether in 1991, their tax bill will rise further.

But although the rich are the biggest losers, they're also the biggest winners. The billions in income transfers have moved mostly from the affluent who formerly used tax shelters to those who didn't. "The wealthy and near-wealthy, the executive and professional class—they've all done very well except for the tax-shelter junkie," says Warren Shine, a tax partner at Ernst & Whinney in New York.

The redistribution of upper-class wealth is evident to Stephen Ballas, the tax manager of the personal financial services group in Coopers & Lybrand's Los Angeles office. One client, the president of a British corporation's U.S. subsidiary, had no shelters. With the maximum tax rate cut sharply, the executive's 1988 liability was slashed to $60,000 from $90,000.

But another client in the accounting firm's same office had been sheltering much of his income by investing $3 million in real-estate partnerships and an orchard. "I would say his tax bill has increased by 50%," Mr. Ballas says, to about $90,000.

Although the new law's effects are plain at both ends of the income spectrum, they are somewhat mixed in the middle. Previously, a family with $30,000 of income faced a maximum rate of 25%. Now, it may be paying 28% on a small portion of that income—and with IRA deductions and other popular write-offs gone, the final tax bill for some may have risen slightly.

The number of taxpayers in precisely these circumstances isn't large, but James Reid, a retired draftsman in San Diego, feels the sting. "They reduced tax rates for very wealthy, so they benefit. The low income benefit," he says. "I don't have any complaints about that, but the guy in the middle picks up tab for both."

The effects on the national economy are illustrated by Mr. Ballas's clients at Coopers & Lybrand. The executive whose 1988 tax bill declined put his $30,000 windfall into a bigger house. And the now unsheltered client put much of his partnership money into municipal bonds and other economically more productive investments.

Indeed, the new tax law is transforming the investment landscape. In the past year, "We've seen very few, if any, abusive shelters, whereas before they were common," says Fuhrman Nettles, vice president of Robert A. Stanger & Co., an investment-research firm. Now, adds Emil Sunley, the director of tax analysis at Deloitte, Haskins & Sells in Washington, "People have got to be looking at the real economics of their investments."

George Hays is. Before the tax overhaul hit, the investment banker in Little Rock, Ark., had joined a partnership that bought 50,000 head of cattle—a high-risk investment he says he wouldn't have made, except that by writing off the cost of feed he reduced his top tax bracket to 33% from 50%. Now, with the tax benefits done. Mr. Hays is out of the cattle business. "We're looking for something that makes some economic sense," he says.

Some of his money has already gone into mutual funds, ultimately helping corporations finance their operations. By the tens of billions of dollars, tax-shelter money is also shifting into Treasury securities, helping the U.S. finance its budget deficits; into certificates of deposit, helping banks fund their operations; and into individual stocks and municipal bonds.

The law is redistributing cash and credit in other ways. With most consumer interest deductions being phased out—but not those on home-loan interest—many homeowners are putting their homes at risk with second mortgages. In the two years since tax revision, home-equity loans have more than doubled to $80 billion. Though much of this borrowing is being used to repay other debts—on credit cards, for instance—much is also going into cars, college educations and playthings.

Money certainly isn't pouring into IRAs as it once did, however. Eliminating the IRA deduction for many people has caused many who had faithfully contributed to IRAs to spend the money instead—eroding the nation's weak savings base but also pumping cash into the economy. At First Colorado Bank & Trust in Denver, which lends money interest-free to people opening IRA accounts, even the bank's chief executive officer, Charles Ferguson, admits that he has stopped contributing to an IRA.

In addition to affecting everyone, tax revision has touched many in multiple ways. Right after the bill passed, Timothy Temple, a public-utility consultant here, and his wife took out a home-equity loan and paid off installment debt, cutting their charge-account interest expense to about $200 last year from $2,565 in 1985. They spent the cash that they otherwise would have put into IRAs. But by the time Mr. Temple could sell a Capitol Hill apartment building that had been tied up in a legal battle, he had to pay $60,000 rather than the $36,000 he would have paid under the former capital-gains rate.

The elimination of preferential capital-gains treatment is, in fact, one of the most controversial aspects of tax revision—something that many economists warned would choke off investment, innovation and entrepreneurship. State treasuries have been hurt by some investors' reluctance to incur taxes by selling assets. Many experts contend that people have been discouraged from buying stocks. President Bush wants to restore the capital-gains tax break. But in general, the doomsayers appear to have overstated their case.

Morgenthaler Ventures, a venture-capital fund in Cleveland, has $4 billion invested in more than 1,000 growth companies. "That hasn't changed since '86," says Bob Pavey, a general partner. Orville Bloethe, a tax attorney in Victor, Iowa, recently handled the sale of farm land that would have changed hands with or without capital-gains treatment. "It didn't seem to be a consideration," he says. Similarly, Arthur Andersen's Mr. Bradt doubts that people base decisions about buying or selling capital assets on their "being taxed at 28% as opposed to 20%."

Even the industries that once fed on passive-loss write-offs remain healthy, and some are flourishing. Cattle are still getting fattened. Real-estate people are at least happy that fly-by-night developers have been mostly driven out. Even jojoba-bean growers that once drew millions from write-off-crazed investors are raising the capital they need.

"A lot of the dire predictions were made at the time: Investment, commercial construction would dry up," says Joseph Pechman, an economist at the Brookings Institution in Washington. "None of that has come about."

One important area of investment has been hurt by tax revision, though. Low-income housing, already crimped by Reagan-era subsidy cuts, lost tax breaks that often made the difference between a profitable and unprofitable investment. Daniel Grady, a developer in Southern California, used to build 600 to 700 apartments a year. "I have not built any new projects since the passage of the act, and until something else happens, I won't," he says.

But the biggest failing of tax revision involves perceptions—the rock-bottom perceptions toward the tax system. In 1988, for the 10th year in a row, Americans rated the federal income tax the worst tax—the least fair—in a survey for the Advisory Commission on Intergovernmental Relations. Polls by Money Magazine and others show the same sentiments. One reason, perhaps, is the vast number of loopholes that Congress slipped into the law to help favored constituents.

Eventually, some experts hope, perceptions will change. "There's pretty much no doubt that it's much fairer," says Robert S. McIntyre, the director of Citizens for Tax Justice. It was his organization that helped spark tax revision by publicizing the ability

of 128 hute, profitable U.S. corporations to avoid paying any income tax for at least one year from 1981 through 1983. Recently, the group reported that only 16 of the same corporations avoided federal income tax in 1987, the first year under the new law.

"I can tell you that certainly from my vantage point, after having spent five years trying to administer the statute, there's no question in my mind that the tax code is fairer today than pre-'86," says Roscoe Egger, a former IRS chief and now a consultant to the Price Waterhouse accounting firm. "No question about it."

Mr. MITCHELL. Mr. President, if I could have the attention of the Senate and the Republican leader.

The PRESIDING OFFICER. The Senate will be in order. The Senators will take their conversations to their respective cloakroom.

The majority leader.

Mr. MITCHELL. It is my intention, momentarily, to propound a unanimous-consent agreement under the terms of which the Senate would, upon the completion of business this evening, recess until 8:30 in the morning and be back on this bill at 9 o'clock.

Hopefully, we will have word then that the two pending amendments, one by Senator GRAHAM and one by Senator MURKOWSKI, would be ready for disposition, each requiring 1 hour equally divided. That would take us through much of the morning, and I understand that by then, we should be aware of the intentions of almost all of the other Senators with respect to possible further amendments.

It remains my hope and intention to complete action on the bill by 4 p.m. tomorrow, and I know that the managers will be working in good faith toward that end overnight.

I am waiting to hear, with respect to one of the two Senators, who may have an amendment available at 9 o'clock in the morning.

ORDERS FOR TOMORROW

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes the business today, it stand in recess until 8:30 a.m. tomorrow morning; that following the time for the two leaders, there be a period for morning business, not to extend beyond 9 a.m. tomorrow morning, with Senators permitted to speak therein for up to 5 minutes each. At 9 a.m. tomorrow morning, the Senate will return to consideration of S. 774, and that the Graham amendment, an amendment to be offered by the distinguished Senator from Florida [Mr. GRAHAM] then be the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. And that there be a total of 60 minutes equally divided for consideration of the Graham amendment, with allocation of that time to be in the usual form; that there be no second-degree amendments permitted, although the managers retain the right to move to table the amendment; and that at 10 o'clock or earlier if any of the time is yielded back, there will be a rollcall vote on the Graham amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. That following disposition of the Graham amendment the Senator from Alaska [Mr. MURKOWSKI] be recognized to offer an amendment on terms and conditions identical to those which I have just described for the Graham amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. That at the conclusion of the 60 minutes for consideration of the Murkowski amendment or earlier if any time is yielded back, there be a vote on the Murkowski amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. That the vote be on the amendment or in relation thereto, thus reserving to the managers the right to move to table the amendment.

The PRESIDING OFFICER. The Chair understands.

Mr. MITCHELL. That the agreement refer to the amendments as follows: The Graham amendment to require the current chairman of the Office of Savings Associations to be confirmed and the Murkowski amendment to be on broker deposits.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. MITCHELL. I yield.

Mr. DOLE. As I calculate it, if all time were used, that will take us up to about, after the votes, 11:30 or thereabouts, and we will continue to work on this side to dispose of all the amendments on this side.

I think that only leaves about three, and I understand maybe one of those or maybe even two of those might be able to be worked out.

That is right. There is one sense-of-the-Senate resolution, an amendment by Senator GORTON and an amendment by Senator WARNER. Maybe those can be resolved.

I might say that I may have an amendment only if it is agreeable to both sides.

Mr. DIXON. Mr. President, will the majority leader yield?

Mr. MITCHELL. Certainly.

Mr. DIXON. In view of what the distinguished Republican leader has said, may I inquire of the majority leader or the manager who is at his side whether there are any more identifiable amendments on this side exclusive of the Senator from Ohio, because my sense of it is, and I frankly say this as in my capacity as chief deputy whip, I am going to be here Thursday and Friday, may I say to the leader, but a good many of our people are telling me in view of what has been said earlier that they had planned to leave, and so I think it is only fair to some of our Members to inquire whether we had reduced this number, exclusive of the position of the Senator from Ohio, to an identifiable amount, which seems minuscule on the other side and perhaps only one or two on our side to the extent that one could represent that if we can accommodate every Member we could be out tomorrow.

Mr. MITCHELL. There is no doubt that if the amendments of the Senator from Ohio are presented and disposed of tomorrow that we will be able to complete action by 4 o'clock tomorrow. I leave to the manager the recitation of the specific amendments, but there is no question in my mind that we will be able to, between 9 o'clock and 4 o'clock tomorrow, dispose of all remaining amendments other than those of the Senator from Ohio, and I hope we can dispose of those.

So in response to the question from the distinguished Senator from Illinois, the answer is that it is as I said earlier, I repeat, it is my hope and intention to complete action by 4 o'clock tomorrow including the amendments of the Senator from Ohio. And I notice the Senator from Ohio is on the floor and I again ask him whether he will be prepared to present his amendments for debate and vote tomorrow.

Mr. METZENBAUM. I am happy to respond to the majority leader.

We are not certain how many amendments we will have. That depends upon the action of the managers of the bill. We will present them in the morning with a package. If they see fit to accept the package, the Senator from Ohio will still be totally opposed to the legislation but would not be inclined to go forward with any other amendments unless there were some that they agreed to and say we will put these several others to a vote.

At this moment I do not know whether they will accept any of the amendments because they came to the floor saying no amendment. If they take a position no amendments, then I will say to the majority leader we will be here tomorrow, we very possibly will be here Friday, whatever time the majority leader says we should be here, and I am not certain we could conclude by Friday because if we do not come to some agreement this Senator believes this legislation deserves far more attention, far more changes than I may be able to achieve by negotiation.

If I can achieve them, we will then settle back and accept that as a package and let it go. If not, I would say to the majority leader we will definitely

be here, if he wants us to be here. I will be here Friday in order to present my amendments. If he wants to work on Saturday, I will be here on Saturday; if he wants to work on Monday, I will be here on Monday.

I hope we can work it out. The Senator who is the manager of the bill is a good friend of mine, and if he is as reasonable as I always am, I know we will have no difficulty in coming to an agreement.

Mr. RIEGLE. Mr. President, will the majority leader yield at that point?

Mr. MITCHELL. I yield.

Mr. RIEGLE. The manager of the bill is a friend and a good friend, and will continue to be, of the Senator from Ohio, and I know his feeling on it. We had a chance to have a good debate earlier today.

We will certainly look at anything he brings in.

I must say that I do not think the Senator from Ohio would expect, nor should he expect, that we are necessarily going to rewrite the entire bill to suit his individual liking, if it runs contrary to the views of the rest of the Members. We vote around here and, if we can work things out, fine; if we cannot, then I think the Senate ought to work its will, and we will take the votes.

As I said to the Senator, I feel just like he does. I am not leaving either.

So there is nobody I would rather spend the time with than the Senator from Ohio down through the week and into the weekend or whatever.

I hope we do not have to have that happen. But if we do, we will make it an agreeable occasion at least between the two of us.

Mr. METZENBAUM. Mr. President, will the colleague from Michigan yield for a question at this point?

Mr. RIEGLE. I yield.

Mr. METZENBAUM. The majority leader has arranged for two amendments to be taken up at I think 9 o'clock and 10 o'clock.

Can the Senator from Ohio be assured that no other amendments will be accepted by the managers of the bill until sometime after 11 o'clock?

Mr. RIEGLE. No other amendments accepted? I am not quite sure.

Mr. METZENBAUM. There may be others who appear on the floor with amendments. What I am asking the manager of the bill to do is to protect those of us who will not be on the floor in the event somebody comes forward with amendments other than those two only so we can get over here to debate them or to agree or whatever the case may be.

Mr. RIEGLE. Let me just indicate, in response to the earlier comments, what other ones we are aware of in addition to the ones that the Senator intends to propose tomorrow. We have an indication of a Conrad amendment on small bank fines that, as things stand now, he would intend to pursue. I do not think that will take a long period of time.

There is an Adams amendment on a Canadian acquisition issue. He has asked for 20 minutes, equally divided.

There is a Leahy amendment on loan-to-value ratios for family farms. That is 15 minutes, equally divided.

There is a Bumpers amendment on financial institutions' relationships with vendors, 20 minutes, equally divided.

There is also a Fowler-Warner-Sasser hostile takeover amendment that we are trying to work out in the form of a colloquy and not have to see an amendment on that subject. We may be able to resolve that particular one that way.

The only other ones that I am aware of are two amendments by Senator HEFLIN on judicial process, 20 minutes, equally divided on each.

Now, those are the ones that have been indicated to us. I cannot assert with certainty that, in fact, those amendments will be brought up tomorrow. But each Member has asked to have their rights protected in the sense that they have such an amendment and they may very well bring them up.

Mr. METZENBAUM. And the floor is open to other amendments, is it not?

Mr. RIEGLE. It would be, absent a unanimous-consent agreement, although I do not have of any others that are coming.

Mr. MITCHELL. There is a certain irony here, if the Senator will yield for a moment, that the reason that the bill would be open to other amendments is because we have been unable to get a unanimous-consent agreement specifying the amendments and the time for their consideration, and the reason we have not been able to get it is because the Senator from Ohio has objected to that. It now remains open for that reason.

Mr. METZENBAUM. And I have no objection to it being open and I have no objection to them being considered. All I am asking is whether or not, while we are not on the floor until 11 o'clock, whether or not those of us who are not on the floor will be protected so that the committee will not be accepting other amendments. I am not asking for there not to be amendments offered. But we have two amendments we know are going to be offered and I am asking only for normal procedure that if you call them up and say on a hotline that we are going to take up this amendment, at least we can come over and protect ourselves in the event we are uncomfortable with it. That is all I am asking.

Mr. RIEGLE. By all means, I would certainly see to it to protect the Senator from Ohio and others that I have indicated who have an interest in offering amendments.

I should also indicate that we will also have a Riegle-Garn manager's amendment that will come presumably at the end of the activity. We have shared this already with the Senator from Ohio at his request.

Mr. METZENBAUM. We have some problems with that.

Mr. RIEGLE. That may be so.

Mr. METZENBAUM. I just wanted to alert the Senator to that.

Mr. RIEGLE. That may be so. I just make the point that we have given that list to the Senator from Ohio.

You know, it is late in the evening, and we are all good friends. There are 100 of us here, and on these issues we can bring them up and we can vote. If we have the votes to prevail, we will prevail. I did not prevail today on some things I might have liked, but that is the way we work around here. I hope no Senator—and I know my friend from Ohio has been around long enough to know this—I hope we would never get into a situation where the insistence is that we write the bill to suit a Senator without regard to the view of the other 99.

I am new to this chairmanship and the handling of these bills. But we cannot legislate that way and I know the Senator from Ohio does not want to legislate that way.

Mr. DIXON. Will the manager yield?

Mr. RIEGLE. Yes.

Mr. DIXON. I wonder if the manager might yield to me to address the majority leader to ask whether my distinguished friend from Ohio would be tolerant of exploring the possibility in the morning when he could be here—say at 11 o'clock—to get a UC exclusive of the distinguished Senator from Ohio where we would limit the list to those already identified and then reserve our discussions with the Senator from Ohio.

It occurs to me that as recently as the other day on the Contra aid question, we had a UC on everything except unlimited debate on amendments by the Senator from North Carolina. I am only trying to package this in such a way that we could get some concept of what is left.

Would the distinguished majority leader consider that?

Mr. MITCHELL. Certainly it is our intention to try to do that in the morning and we will do that. Senators have left now and, therefore, it is not possible to do that now. We will attempt to do that in the morning.

I just want to repeat something I have said previously several times so there can be no misunderstanding by any Senator with respect to the schedule of the remainder of the week. I hope we can complete action on this bill by 4 o'clock tomorrow. That may not be possible. The Senator from

Ohio clearly has it within his ability, if he chooses to do so, to prevent that from occurring, as does any other Senator.

We but were going to finish this bill before we go on recess. If we do not finish it tomorrow, we will be in session the remainder of the week. There will be no rollcall votes from 4 o'clock tomorrow through Thursday, but we will be back on Friday and we will stay here until this bill is finished, however long it takes. If that means no recess, then so be it. Every Senator ought to be aware of that fact.

Now, I am not saying anything new. I have said exactly the same thing in almost exactly the same words several times over the past several days. So we are going to finish before we go on recess and if we do not finish, then we are not going to go on recess. We have to try to be accommodating and fair to every single Senator, but the public's business comes first.

And so I hope we can do this to accommodate all of the Senators. We will try our best. I certainly respect the concern of the Senator from Ohio for many aspects of this complicated bill. He has made very clear his position. He has made some very eloquent and persuasive arguments. But there comes a time when I hope the Senator will present his amendments.

Mr. METZENBAUM. I hope that I can accommodate the Senator from Maine. But I want to point out, I do not know what the sense of urgency is. The House has just put this bill out of subcommittee and, as I understand it, it will not go before the full committee until sometime in the middle of May. Is that correct?

Mr. RIEGLE. It is unclear.

Mr. METZENBAUM. Sometime at the end of April. They are not expecting to really get to the legislation until at least sometime in May, even if the committee acts upon it in the latter part of April. So I am not exactly sure what all——

Mr. MITCHELL. May I explain what the urgency is?

Mr. METZENBAUM. Certainly.

Mr. MITCHELL. The House will be in session next week. They will not be in recess. They will be acting.

Now, if we take the position that we are not going to move a bill until the House moves a bill, what is to prevent the House from taking the position they are not going to move a bill until we move the bill?

Mr. METZENBAUM. Did not the majority leader say something today in getting a unanimous-consent request about the House adjourning next week?

Mr. MITCHELL. No. The Senate is going to recess next week. The House is not. The House will be in session next week. The Senate is now scheduled not to be.

But this is a nationally critical situation. I cannot say for sure what the costs to our Government and taxpayers are by continuing inaction. They vary widely. As the Senator from Ohio has pointed out today, there are some costs associated with it.

Mr. METZENBAUM. I am not even certain of that because as soon as we borrow the $100 billion, you have $10 billion a year in interest. So I am not sure whether it is less expensive or more expensive.

But let me say to the Senator from Maine that I have no useful purpose in attempting to delay deliberations of the Senate. I do have a concern about this bill, which is the biggest giveaway of the taxpayers' money in the history of this Nation in any one single bill, $239 billion.

I said $157 billion earlier. My friend, the chairman of the committee pointed out it is $239 billion.

So, the majority leader is anxious to move along with the progress in the Senate, and I appreciate that. But the fact is we do have a responsibility, and the majority leader said something about the fact of the public's business.

The public's business has to do with whether or not we move through so expeditiously that we keep the wheels moving but in doing so we may be doing more harm than good.

That is the reason the Senator from Ohio has raised questions and indicates he intends to continue raising questions and continue offering amendments. Because I firmly believe that, although it has been in the papers many times, the American people do not have the slightest idea of how much they are going to be called upon to pay by reason of the enactment of this bill.

Mr. MITCHELL. The Senator knows this is not the time for debate on the subject. That has occurred here on the floor earlier today with the manager. We can all characterize things in any manner we want. The Senator characterizes it as a $239 billion giveaway. I have heard proponents of the bill characterize it as the U.S. Government honoring its commitment to ensure the deposits of millions of Americans all over the country.

Certainly we could save money if we now wanted to renege on the commitment of the U.S. Government to ensure the deposits of American citizens.

Mr. METZENBAUM. Obviously that is not my position. I believe we must meet that commitment.

Mr. MITCHELL. Then in terms of the characterization of what the legislation will do, we can save that for tomorrow, hopefully tomorrow only. Possibly later in the week.

I merely wanted to make clear to the Senator from Ohio and others that we are going to finish the bill; however long it takes, for whatever period we have to stay here.

The Senator has every right to press his views as vigorously and effectively as he can. And we all know he will. And I hope we can finish by tomorrow.

If not, all Senators should be on notice, we will be back until we do finish.

Mr. METZENBAUM. I hope we can also.

Mr. DOLE. I would just say I have always found the Senator from Ohio to be reasonable, in most cases.

Mr. MITCHELL. And we hope this is one of those most cases.

BYRD ACID RAIN SPEECH

Mr. MITCHELL. Mr. President, earlier this week a remarkable thing occurred in Washington. Before a national meeting of the National Coal Association, my predecessor as majority leader, the senior Senator from West Virginia, informed the coal industry that the time has come to stop stalling and start talking. He told the coal industry that an acid rain bill was almost inevitable and it was time to come to the negotiating table. This is a courageous and visionary statement.

Senator BYRD's opposition to acid rain legislation is well known. He has been an extremely able advocate for his constituents on this issue. This week, he demonstrated true leadership by suggesting that it is time for the coal industry to begin serious negotiations on an acid rain bill.

I am aware there is unease about the market impacts of acid rain legislation. It is not now, nor has it ever been, my intention to disrupt coal markets through acid rain controls. I understand that acid rain legislation necessarily affects coal markets and I want to work with those who are affected to minimize any potential disruption. I again invite all interested parties to join in crafting a fair and reasonable proposal that achieves meaningful reductions in a timely fashion.

I applaud the efforts of the senior Senator from West Virginia. As ever, I look forward to working with him to develop an equitable and effective acid rain proposal.

I ask unanimous consent that the statement by Senator BYRD be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the Record, as follows:

STATEMENT BY SENATOR ROBERT C. BYRD, NATIONAL COAL ASSOCIATION

Thank you for that kind introduction. It is an honor for me to be invited to address the National Coal Association's first-ever Washington Legislative and Regulatory Conference. Let me also take this opportunity to congratulate the National Coal Association for putting together this "Coal Issue, '89" Conference. It is important for the coal industry to come together in conferences such as this to identify, discuss,

and work towards a consensus on those legislative and regulatory issues that impact the production and use of coal.

In my judgement, the next two years are going to be critical to the future of the coal industry.

I believe that the need for a national energy policy has never been greater. We are witnessing some all-too-familiar and disturbing energy supply and demand trends.

Energy consumption, which remained fairly constant from 1973 to 1986, has suddenly increased sharply. Despite GNP growth of one-third during the period 1973 to 1986, U.S. energy consumption during that period was never greater than 74 quadrillion British thermal units (quads). U.S. Energy consumption in 1988, however, increased to 80 quads.

Energy efficiency, which reduced America's energy demand by as much as 29 percent during the period 1973 to 1986, has seriously eroded. In 1988, the growth in energy demand exceeded GNP growth for the first time since 1973.

Domestic oil production has dropped to its lowest level in 25 years, while domestic consumption of petroleum products has been increasing at a rate of 2 percent a year. As a result, our dependence on imported oil has increased by 2 million barrels per day since 1985, and now accounts for 43 percent of our domestic consumption. According to the energy information administration, 48 percent of the oil we now import comes from the Persian Gulf.

Our demand for electricity is also increasing. Electric output in the U.S. in 1988 was up 5.1 percent over 1987. Reserve margins in some regions of this country have become dangerously thin. The Department of Energy estimates that we will need in excess of 100,000 megawatts of additional generating capacity by the year 2000.

The evidence is clear: the United States must have an energy policy. Our economy and our national security depend upon it. The centerpiece of our energy policy must involve finding ways to expand this Nation's ability to exploit our most abundant domestic energy resource: coal. Coal reserves amount to 82 percent of our national energy resources. Of the existing electric power generating capacity in the United States, 57 percent is now coal-based.

But, as I look to the 101st Congress, I must confess to you that I am concerned that we will not be able to deal effectively with this Nation's energy problems. I am concerned because I see an almost unavoidable collision between the need to increase the available domestic supplies of energy and the need to foster more stringent environmental regulation.

The most recent and perhaps the most salient example of the tension that exists between our energy and environmental policies is what is occurring in the aftermath of the accident in Alaska's Prince William Sound involving the tanker Exxon Valdez. Not only has this accident affected significantly the prospects for legislation to open the Arctic National Wildlife Refuge (NAWR) to oil and gas exploration, but the Governor of Alaska has indicated that he may close the terminal at the end of the Trans-Alaska Pipeline which provides essential access to 20 percent of our domestic oil supply.

We must, however, work hard to try and avoid a conflict between this Nation's energy and environmental priorities. Failure to avoid this conflict could have serious consequences. Jobs are at stake. Communities are at stake. Our national security is at stake.

Nowhere is this conflict more acute than in the debate over acid rain and clean air. I have believed for some time that we should be looking for ways to compromise on these issues. As I predicted last year, growing public concern and a change in the administration have made the likelihood that a clean air bill will pass during this congress almost inevitable.

The time has come for the coal industry to pull itself up to the negotiating table. Working together, we must try to bring about a fair arbitration of this Nation's competing energy and environmental concerns.

Our ability to accomplish this, however, will require consensus. The coal industry cannot remain as bitterly divided as it is today over possible legislative solutions to the acid rain problem. We have reached a critical juncture: United, we could seize this opportunity to eliminate the regulatory uncertainties that continue to undermine the stability, the reliability, and the competitiveness of coal as a fuel source; or we could remain divided, high sulfur versus low sulfur, the east versus the west, in which case, I believe, the entire industry will suffer. The temptation for many to "cut your own deals" and "rig the game" in the hopes of increasing market share will be great. I hope that such a temptation will be resisted. We must work together, because as a very wise man once said, "We either hang together, or we just hang."

I would like to suggest five fundamental principles around which I believe we might attempt to forge such a consensus:

First, any new acid rain control legislation should ensure that significant, but not excessive, emission reductions of sulfur dioxide and nitrogen oxides are achieved:

Second, any new acid rain control legislation should be based on a reasonable schedule, with reasonable deadlines;

Third, any new acid rain control legislation should ensure that compliance deadlines for emission reductions be linked with the expected commercial availability of emerging clean coal technologies;

Fourth, any new acid rain control legislation should ensure that existing coal market shares are preserved or are allowed to increase, but should not engender a loss of coal market share; and

Fifth, any new acid rain control legislation should include cost-sharing to ensure regional equity and to provide incentives for the use of clean coal technologies.

I have been your "watchman" on the bridge up there in the Senate for going on twelve years now. We have worked well together. We should continue to work together. But, now we are confronted with some very tough choices.

The purpose of this conference is to identify, discuss, and work towards a consensus on those issues that will have a significant impact on the coal industry. As important players, you are all expected to "spread the word" in the Congress regarding the coal industry's views on these issues. I urge you to consider carefully the five principles which I have just outlined. If you can reach a consensus here in this conference, it would certainly enhance prospects for a workable acid rain bill in the Congress. This Nation's energy security and the future of the coal industry may well hang in the balance.

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

Mr. KENNEDY. Mr. President, in September, the Inter-American Commission on Human Rights [IACHR] was granted permission by the Government of Panama to send a delegation to investigate the human rights situation in that country. The delegation recently returned from Panama and issued a report on the visit.

While in Panama, members of the delegation met with Government officials, various representatives of Panamanian society, and individuals with specific human rights complaints. The delegation also visited several prisons.

The Commission has expressed its concern about the irregularities in the current electoral process and outlined conditions necessary, including the reopening of sectors of the media which were forced to close, to assure free and fair elections which are scheduled for May 7. The Commission also protested the Government's refusal to permit the delegation to visit the newspaper, La Prensa.

I believe that the preliminary observations of the IACHR will be of great interest to all of us who are concerned about the situation in Panama. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Press Communique]

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

1. The Inter-American Commission on Human Rights (IACHR) carried out an on-site visit to Panama from February 27 to March 3 of this year, for the purpose of becoming familiar with and examining the human rights situation in that country, pursuant to the norms established in the American Convention on Human Rights, to which Panama is a state party.

2. The Commission, during its 75th period of sessions, having received the report prepared by the delegation which visited Panama, wishes to make some preliminary observations regarding the recommendations made to the Panamanian authorities at the time of the Commission's on-site visit. These observations have to do with the circumstances which the Commission found during its mission and which constitute central aspects of the investigation which it is carrying out regarding the situation of human rights in Panama.

3. During its visit the Commission received a large number of complaints of alleged human rights violations, which it is processing pursuant to the terms of the American Convention on Human Rights. These complaints refer fundamentally to cases of torture, injuries which occurred during political demonstrations, abuse of authority, factual impediments to the return of certain persons who were made to involuntarily abandon the country, various attacks on freedom of expression, harsh treatment of political and common prisoners, harassment, illegal detentions, lack of independence of courts, delay in the processing of judgments, inefficacy of the writ of Habeas

Corpus, detainees held in a prolonged incomunicado state, confiscation of private property belonging to commercial companies and serious irregularities in the electoral process.

4. For the Commission, as the press communique of March 4th indicated, the complete observance of human rights constitutes an essential prerequisite for the holding of a legitimate election.

5. In this regard, the Commission considers that the exercise of political rights presupposes the complete observance and respect of the following rights:

(a) personal liberty

(b) freedom of expression

(c) judicial guarantees and judicial protection

(d) the right to hold meetings and

(e) freedom of association.

6. As regards personal freedom, the Commission received numerous complaints which state that political leaders are frequently detained in Panama without the most basic formalities. Many of the cases are of persons who allege having been savagely beaten and then detained for the sole reason of having participated in a pacific political demonstration organized by the opposition to the government. During their detention, these persons denounced having been subjected to torture and harsh treatment by the guards, as well as by the common prisoners. Some pointed out that they had been kept incomunicado for long periods of time.

7. In this context it is also worth mentioning the case of an important number of Panamanians who have involuntarily had to leave the country and the fact that their return is impeded due to the pending legal actions against them. Some of them are outstanding leaders of the panamanian political world, whose marginalization, without doubt, weakens the credibility of the current electoral process.

8. Freedom of expression, as the Commission has stated on repeated opportunities, constitutes one of the fundamental pillars of a democratic form of government. This right occupies a more important role during an ongoing electoral process, since it is the fundamental vehicle of communication between the various political forces and public opinion and permits the electors to form an objective and responsible opinion at the time of emitting their vote.

9. In this context the Commission was able to attest that in Panama, during a period which requires the most absolute and comprehensive freedom of expression, the following communications media are still closed down: the newspapers "La Prensa," "El Siglo," and "Extra," the weekly "Quiubo," Channel 5 (Television) and the radio-broadcasters Mundial and KW Continent. On the other hand, Channel 4 (Television) informed the Commission that it is required to engage in certain kinds of self-censorship in its presentation of the national news and, in particular, as regards the political scene. Also, the Commission was informed that the attempted publication of the new newspaper "Hoy" has been totally fruitless given the negative responses of the governmental authorities as regards granting the permission required.

10. Furthermore, several cases of journalists who have committed no crime but who have been detained have been denounced to the Commission. Some of them have spent a long time in jail. The most recent case was that of the journalist Aurelio Jiménez Vélez, who was detained on March 20 and recently released, with no charges having been presented. It was also possible to document several cases of journalists, who following their detention, were expelled from the country and who are impeded from returning. In this regard, the case of Mr. Alberto Conte, is illustrative.

11. Finally, on this point, the Commission would once again like to lament the fact that, during its visit to Panama, it was impeded from visiting the "La Prensa" newspaper facilities, which have been closed for several months. Following repeated requests to the governmental authorities to visit "La Prensa's" offices, which are being occupied by the military at the present time, at the last minute the authorities denied the authorization. This act constitutes a serious failure to comply with the terms of the agreement between the Commission and the Government of Panama, in the sense that the Commission is to be free to visit those places which it considers appropriate and relevant to the carrying out of its investigation.

12. The Commission has pointed out on repeated occasions that the independent and efficient administration of justice constitutes one of the fundamental grounds upon which the rule of law is based and represents an essential guarantee for the respect of human rights.

13. In this context, in the opinion of the Commission, the institution of the *Corregidores,* as it has been set forth in Panamanian legislation, separates itself totally from the principles and norms consecrated in the American Convention. In effect, pursuant to the Panamanian Administrative Code, a large number of crimes, termed misdemeanors, are subject to the jurisdiction of the *Corregidores.* Persons who have not been trained but have simply reached the age of 18 and who have been appointed by mayors are charged with imposing penalties which can be as long as one year in prison, in an oral and summary procedure and without the benefit of judicial control or supervision. In effect, what is occurring is that the Executive Branch is removing an essential tool of responsibility from the Judicial Branch, and this has been used abusively, and as the Commission has been informed, for political persecution.

14. The Commission has also received complaints alleging that the writ of Habeas Corpus is not an efficient legal instrument, and that it does not receive the required attention and speed, on the part of the courts, to safeguard the requisite respect for human rights. In this regard it does not cease to concern the Commission that during the duration of the state of emergency, the suspension of the writ of Habeas Corpus was permitted, which contradicts firmly entrenched legal principles which protect individual rights, such as the Inter-American Court on Human Rights pointed out in its Advisory Opinion, Number nine.

15. The Commission was also able to verify that there is an extraordinary delay in the courts as regards the processing of trials. The large majority of the prison population has not been sentenced. If it is taken into consideration that the vast majority of the prisoners are in preventive detention and that, pursuant to official information, a large part of the trials end in the definitive or temporary dismissal of the case, it is a fact that, *prima facie,* the principle of the presumption of innocence consecrated in the American Convention on Human Rights is being attacked. This is aggravated by the fact that these prisoners are in crowded conditions despite the remodelling of the principal centers of incarceration.

16. In the opinion of the Commission the relevance which the right to hold meetings and the right to association acquire in the course of an electoral compaign is self-evident. In this regard the Commission was able to meet with leaders of the principal political forces of Panama, who were able to make known their points of view regarding the panamanian political scene and the existing guarantees. On this same subject, human rights groups informed the Commission regarding the legal restrictions prevailing as concerns public demonstrations, and the series excesses and abuses committed by the public forces in repressing the opposition demonstrations. In this regard the Commission received testimony from persons who had suffered serious physical injuries, provoked by birdshot used by the police forces. Pursuant to the information presented, the police forces, enthusiastically seeking to dissolve the demonstrations, have used an indiscriminate and excessive use of this means. In addition, tear gas has been used frequently in closed places.

17. The Commission has received an abundant amount of information also about the participation of armed civil elements, called paramilitary forces, in the repression of the demonstrators. These groups, according to the allegations, act in the face of the absolute passivity of the forces entrusted with maintaining public order.

18. The Commission was also informed of various cases of political parties who have suffered serious internal divisions in confusing disputes before the Electoral Court. In this regard, the Commission expresses its serious concern as to what appears to be a practice, in which, according to the information received, the governmental authorities are responsible for promoting the internal division in certain parties, and then recognizing the minority fractions as the official governing bodies of the same. There are already four political parties in the opposition which have suffered this experience. The most recent case affected the Partido Panameñista Auténtico, of which Mr. Guillermo Endara, the opposition candidate for the presidency, claims to be the legitimate leader. It is evident that these facts do not contribute to creating the necessary climate for the people to elect, in a free and authentically informed manner, among the various political options.

19. Opposition political parties expressed serious doubts regarding some substantive aspects of the Panamanian electoral system to the Commission. In effect, they stated their lack of confidence as regards the institutions which are charged with monitoring the process, as regards their membership, which offer no guarantees of impartiality, nor permit the participation of members of the opposition parties. At the same time, the laws which regulate the electoral process, it was pointed out, facilitate certain kinds of electoral fraud, from the moment that, for example, members of the Panamanian Defense Forces are permitted to vote at any voting table, without the requirement of appearing on the voter registration lists and with the sole requirement of showing their identity card and a certificate issued by the Electoral Court. Also, the electoral law does not provide for the use of indelible ink or any other similar mechanism which prevents the voter from voting more than once. According to the complaints presented, the current electoral law does not

provide sufficient guarantees to assure that a person cannot vote more than once.

20. The Commission also noted that the opposition political parties are in the minority as regards the composition of the voting tables. This acquires real importance from the moment that, in accordance with the information presented by the authorities, any dispute which takes place the day of the voting is to be resolved, in principle, by the majority of the persons who comprise the voting table.

21. Lastly, some complaints were presented regarding the massive alterations made in the electoral lists; factual impediments and harassment during the demonstrations held by the opposition; pressures on public functionaries; retention and or premature performation of the identity card of the members of the opposition parties, presumably, with the intent to prevent their participation in the election; use of fiscal goods and official vehicles to transport government adherents to political demonstrations.

22. In any case, the premature perforation of the identity card, pursuant to the information received from the Electoral Court, does not, in itself, prevent that the voter exercise his right to vote. In effect, for the authorities, the perforation of the identity card only constitutes one piece of evidence that the voter has exercised his right to vote, so that if the voter's signature does not appear next to his name in the respective registration list, the voter can still vote.

23. Article 23 of the American Convention on Human Rights, consecrates the right of every person to take part in the conduct of public affairs, directly or through freely chosen representatives. The election of these persons must be carried out by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters. Pursuant to this norm, the State is not only obligated to respect these rights but also to guarantee their full and free exercise. As the Inter-American Court has stated, regarding the legal nature of the obligations which derive from the American Convention on Human Rights, the "duty of the States Parties to organize the governmental apparatus and, in general, all the structures through which public power is exercised, so that they are capable of juridically ensuring the free and full enjoyment of human rights." (I/A Court H.R., Velásquez Rodriguez Case, Judgment of July 29, 1988. Series C No. 4.).

24. In synthesis, the Commission wishes to express its concern to the Government of Panama as regards the current electoral process, in which serious irregularities are occurring which directly undermine the minimum conditions which an act of this nature requires and prevent the creation of an environment which permits the political parties, the candidates and the voters from expressing themselves with entire liberty in the exercise of their political rights.

WASHINGTON, DC., *April 11, 1989.*

FAIRNESS DOCTRINE

Mr. PRESSLER. Mr. President, today the Commerce, Science, and Transportation Committee reported S. 577, the Fairness in Broadcasting Act of 1989. This legislation would reinstate the fairness doctrine, which requires broadcasters to provide adequate coverage of issues of public importance, and coverage of differing viewpoints on those issues. I voted against the bill in committee and would like to take a few minutes to explain why I took that position.

The fairness doctrine was first instituted in 1949. It remained in effect until 1987, when it was repealed by the FCC. The FCC had sound reasons for establishing the doctrine in 1949. Spectrum is scarce and there were very few radio and television stations on the air. Beyond that, there was no cable television or satellite delivered television. The fairness doctrine was a good policy—even necessary.

But things are not so clear now. The broadcast marketplace has changed substantially. There are now over 9,000 radio stations and over 1,000 television stations on the air in the United States. Alternative sources of news and information have blossomed. There is a real question whether the fairness doctrine is necessary today. On the one hand, spectrum is still a scarce resource and cannot be totally deregulated. On the other hand, there is a greater number of sources of news and information available today.

I have supported the fairness doctrine before, but it was not easy to do so and it was never offered as a separate, free-standing proposition. Other issues were included in the legislation under consideration. Today I had the first opportunity to vote on this issue on its own separate merits, and it was not an easy decision.

I looked at our experience since 1987 when the FCC abolished the fairness doctrine. Based on the record since then, or lack thereof, it appears that broadcasters generally have acted very responsibly during that time. But the record has not been developed. So I feel we must give them the benefit of the doubt, at this point. Therefore, I voted against legislating the fairness doctrine today.

The fairness doctrine represents an important public goal. The public deserves good information on all sides of important public issues. I am a firm supporter of the rationale behind the fairness doctrine, and it may become necessary to reinstitute it again in the future. But for now the system appears to be working and I have decided, with some hesitation, to let broadcasters prove that they can continue to provide fair coverage of issues in the absence of the fairness doctrine.

MEMORIAL FOR GREEN BERETS

Mr. COHEN. Mr. President, on March 12, 11 Green Berets from the 5th Special Forces Group were killed in a helicopter crash in the desert in Arizona. This tragic accident serves as a stark reminder of the risks undertaken by the men in our special operations units both in war and in peacetime.

According to information provided to me by the Congressional Research Service, the 5th Special Forces Group suffered 546 fatalities and 2,704 wounded during the conflict in Vietnam, a very high casualty rate for a unit that had an average annual troop strength of roughly, 2,800 during its 8-year involvement in the war. Out of an estimated 850 Distinguished Service Crosses awarded in Vietnam, 100 went to members of the Special Forces—a figure far out of proportion to their numbers. And today members of the Special Forces continue to accept extraordinary risks in the defense of their country through assignments as trainers and advisers to Third World countries where combat with guerrillas and terrorists is an almost daily occurrence. For example, 2 years ago Special Forces Staff Sgt. Gregory Fronius was killed in a guerrilla attack on a base in El Salvador, in which it appears that he was deliberately singled out by the insurgents. And, as last month's tragic helicopter accident indicates, even the training for their unique missions can involve an unusual degree of danger for those who volunteer for duty with Special Operations Forces.

It is important that we do not take for granted those who volunteer for unusually rigorous and dangerous military assignments. These individuals do not receive great financial remuneration. The least we can do, it seems to me, is to let them know that we appreciate the sacrifices and risks that they assume for the benefit of our country.

In that regard, Mr. President, I would like to take note of Senator KENNEDY's recent remarks at a ceremony held at Fort Bragg, NC, to honor those killed in last month's tragic helicopter accident. Senator KENNEDY has been a leader in ensuring that the men and women of our Special Operations Forces receive the consideration and appreciation they deserve, not only in terms of recognition, but in terms of policy and budgetary considerations. As the sponsor of a number of initiatives to improve the capabilities of U.S. Special Operations Forces, I have been deeply appreciative of Senator KENNEDY's support and involvement. He has repeatedly been willing to devote a great deal of time to these matters, despite the fact that there is no public acclaim to bask in and these issues do not involve the big ticket defense items that are the focus of so much attention in this body.

Mr. President, I would ask that Senator KENNEDY's statement at the ceremony honoring the Green Berets who were killed last month be entered into the RECORD in its entirety.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF EDWARD M. KENNEDY, MEMORIAL FOR GREEN BERETS, FORT BRAGG, NC, MARCH 21, 1989

We are here today to mourn the loss of 11 brave men—men of the Green Berets.

My brother Jack had a very special relationship with the Green Berets. He was involved in their founding. He understood the importance of their role in meeting the new threats that now challenge our security. He, as I, sincerely believed that to deal with these new threats, we needed the most dedicated, the most well-trained, the most selfless soldiers. These are the Green Berets.

Because we are at peace today, people often fail to recognize the sacrifice of those who offer their lives for their country. But these men are no less gallant, their sacrifice no less noble, their dedication no less important than during war. Indeed, it is exactly because of their sacrifices that we are able to maintain the peace.

Our peace is not an accident. Our freedom does not come without a price. It is the consequence of the enormous dedication and frequent sacrifices of the men and women of our armed services. And it is particularly the consequence of those, like the 11 men we recognize today, who offered their lives in defense of their country. We honor those who give their lives in training equally with those who give their lives in war.

In his address to the graduating class at the U.S. Military Academy in 1962, President Kennedy spoke of the Special Forces and their essential role in defending freedom against war by ambush and infiltration instead of combat and aggression.

He had put the Special Forces in Green Berets as a mark of excellence and honor, and I know he would have been honored by the green beret that you placed on his grave in Arlington.

In closing his remarks on that day 27 years ago at West Point, he spoke in words that are equally appropriate today: "You have one satisfaction—however difficult these days may be—when you are asked by the President of the United States or by any other American what you are doing for your country, no man's answer will be clearer than your own."

I am honored to be here with you today and to join in this tribute to these 11 heroes. They have served their country well.

THE LAST HAPSBURG EMPRESS

Mr. PELL. Mr. President, recently we witnessed the passing of an era. On March 14 of this year, Empress Zita, the Empress of Austria and Apostolic Queen of Hungary died. She was the last surviving former monarch of the Hapsburg family, a family that had ruled parts of central Europe for over 600 years.

Empress Zita reigned with her husband for but 2 brief years. Caught in the tumult of the First World War, she struggled hard to bring peace to the Austro-Hungarian Empire from 1916 to 1918. Unfortunately, these efforts brought her censure by those factions who placed honor and empire over the cause of peace and justice.

Today I submit for insertion in the RECORD a homily by the Reverend Winthrop Brainerd of St. Matthew's Cathedral in Washington. His statement commemorates the life of a woman who gave so much of herself to improve our world. We are the poorer for her passing.

Mr. President, I ask unanimous consent that Reverend Brainerd's homily be printed in full at this point in the RECORD.

There being no objection, the homily was ordered to be printed in the RECORD, as follows:

SERMON FOR THE REQUIEM MASS OF HER IMPERIAL MAJESTY, THE EMPRESS OF AUSTRIA AND APOSTOLIC QUEEN OF HUNGARY, ST. MATTHEW'S CATHEDRAL, WASHINGTON, APRIL 1, 1989

Today we hold before the throne of the King of Kings the life and witness of Her Imperial Majesty, the Empress of Austria and Apostolic Queen of Hungary.

Today, we are here not only to thank God for the life of the Empress Zita, but to offer that life to God for his sanctifying and perfecting.

Certainly, few lives in this century have striven so hard, and tried to give as much to our world, and rarely have so many gifts been as brutally rejected and scorned for the very act of trying.

At the death of the Emperor Franz Joseph, in 1916, the Austro-Hungarian Empire was faced with extraordinary demands upon its structure. And when the Emperor and Empress were summoned to the onerous responsibility of the thrones of Austria and Hungary, Bohemia, and of all of their other dominions, these burdens of rule demanded from them an extraordinary devotion to the peoples that God had called them to serve.

When, to the difficulties facing the Empire, were added the multitude of tragedies of the First World War, the formidable tasks facing this young couple demanded from them a response which neither of them ever tried to evade, and to which both of them gave full measure of their talents, always sustained, in perplexity and challenge, by the strength and grace of the Faith.

It was the profound wish of both the Emperor and the Empress to seek peace. This quest for peace came both for the sake of the Empire, increasingly divided by the horrors of that conflict. Both the Emperor and the Empress could see that the problems facing the Empire could only be solved through the construction of peace.

This desire for peace came as well, through a profound sense of unity with the Holy Father, Pope Benedict XV, whose voice never ceased to plead for the sanity of peace in a world made deaf by the hatreds of war.

Kaiser Karl, "the Peace Emperor" expended every resource at his disposal to achieve this end. And the Empress Zita did not spare herself, nor did she count the danger to the life of her brother, Prince Sixtus, too high a cost in this search for peace.

It is the tragedy of our century that what might have been achieved in the victory of peace, was squandered by the universal defeat of victor and vanquished alike. When we reflect on the gifts to our world that peace might have brought, and contrast that with the torturous and often squalid imposition of punitive terms which sowed the seeds of Fascism, Nazism, Communism, and the Second World War, truly the figures of The Emperor and Empress assume prophetic stature.

Had their example been followed; had their voices been heeded; had their duty, made glorious and sure by the grace of faith, been upheld; been allowed to flourish; so many tragedies might have been averted; so much death and so many wounds; so many horrors that still cry to God for vengeance might have never happened.

Instead the whirlwind of selfish and vindictive decisions, made with a cynical disregard by the victors upon a dismembered Europe made yet more hideous and polluted by the venom of class-hatred, finally engulfed both victor and vanquished alike in a yet more horrible cataclysm, at the end of which the constituent parts of the Empire, Felix Austria alone excepted, fell under the brutal and vicious despotism from which, only now, do we see the beginnings of hope.

Yet, instead of admiration for the anguish of personal cost and sacrifice; instead of appreciation for the lives given in service to the people of the Empire; instead of sympathy for a just solution to a War which they inherited and tried to end; instead of understanding the principles for which they stood, the Emperor and Empress were treated with vindictive and cynical calumny.

Yet even when the rapacity of the allies and the inflammation of revolutionary politics caused their exile, the courage and dignity of the Emperor and Empress never faltered. As a measure of their devotion and service to the exalted station to which they had been called, the Emperor never abdicated his responsibilities. And, when the Emperor made the two attempts to serve his people, he was faced with the threat of armed aggression, not from his people, but from those who scorned him.

Nor did the Empress ever lay down the burden of her duty, even when this would have allowed some alleviation of her poverty and exile.

Throughout their exile, the same measure of dignity which comes from the faith, allowed the Emperor and Empress to uphold, in serenity, their principles in a most unprincipled world.

Worn out by the scorn and persecution of his enemies, the Emperor died in exile, sixty-seven years ago today. And the Empress added the loneliness of her widowhood to all the other burdens laid upon her. Truly, the nobility of their lives reflect the words of the gospel, "Blest are you when they insult you and persecute you and utter every kind of slander against you because of me. Be glad and rejoice, for your reward is great in heaven." (Mt. 5:11)

Europe has now been at peace for a longer period than any other in her recorded history. That this peace, fragile though it has so often been, fragile though it may yet become, stems from the principles of peace as an end in itself; from the principles of national cooperation; from the principle of the dignity and service of individuals in a cause greater than themselves. These are all the principles espoused, lived, and proclaimed by the example of the Emperor and Empress. These principles, this example, have not been forgotten They live in the service of their son, who, ever mindful of the example of his parents, still serves in the Parliament of Europe.

Now this life has passed from among us. This life, filled with challenge and pain; with grief, exile, and disappointment bourn without complaint, and in a dignity which elevated and consoled all those who know her; this life, in the mercy and consolation of God, is now made whole and holy, per-

fected in his love, and filled with the radiance of a faith fulfilled.

A few hours ago, the mortal remains of Her Imperial Majesty were laid among the dust of her predecessors in the Imperial Vault of the Capuchin Church in Vienna. In one of those peculiarities of history, her burial falls on the anniversary of the Emperor's death. Now in that Kingdom where there is no pain or grief they who loved on earth are reunited.

That the Government of Austria has granted her, her proper place to lie in death among the members of the House of Hapsburg, it a splendid and moving act of piety and generosity. Yet this act recognizes as well, that the Empress, through a life long and nobly lived in faith and service, has earned, through her merit, the right to lie among these illustrious dead.

In the ancient "Spanish Ceremonial" at the burial of an Empress, entrance was demanded in the fullness of the Imperial titles. This was refused. Then, entrance was demanded for the burial of an Empress and Queen. This was refused.

The final demand that the subjects of the Empire could pay to their sovereign was to make on her behalf, the request for a miserable sinner needing burial.

Today, that final service has now been done for her, and here today, before her Sovereign Lord and God, we commit into his merciful and loving hands the soul of Zita, his servant.

DEATH OF WILLIAM ATTWOOD

Mr. PELL. Mr. President, it is with very real sadness and regret that I bring to the attention of my colleagues the death of William Attwood, one of the America's most distinguished and finest authors and public servants. His death is a real loss and cause of sadness to all of us who knew or worked with him through the years. His service to our Nation and his contribution to the public weal are legion and will be much missed.

His accomplishments are well set forth in his obituary in the New York Times, April 16, 1989, which I ask unanimous consent to be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 16, 1989]

WILLIAM ATTWOOD, 69, JOURNALIST; WAS PUBLISHER AND AMBASSADOR

(By Susan Heller Anderson)

William Attwood, an author, journalist, former publisher of Newsday and a former ambassador, died of heart failure yesterday at his home in New Canaan, Conn. He was 69 years old.

Mr. Attwood pursued several careers, all with success and élan. As a foreign correspondent for The New York Herald Tribune, he wrote compellingly of a Europe reeling from the devastation of World War II. While a European correspondent for Collier's, from 1949 to 1951, he also wrote a nationally syndicated column on foreign affairs.

He joined Look magazine in 1951, holding several editorial positions.

When he returned to the United States, Mr. Attwood, with his wife, Simone, traveled the nation and produced his first book, "Still the Most Exciting Country," published in 1955 by Alfred A. Knopf.

WROTE SPEECHES FOR KENNEDY

For 10 years, he worked for Look, taking a leave in 1960 to write speeches for Adlai E. Stevenson, then a candidate for the Democratic nomination for President. The nomination went to John F. Kennedy and Mr. Attwood joined his speech-writing staff.

When Kennedy became President, he named Mr. Attwood ambassador to Guinea in 1961. While there, he contracted polio, which left him partially lame in one leg. "He could still play tennis, but you had to give him two bounces," said Robert Yoakum, the writer and a close friend of Mr. Attwood.

After that success, Mr. Attwood was named by President Kennedy as special adviser on African affairs to the United Nations, a post he held until he was appointed ambassador to Kenya by President Lyndon B. Johnson in 1964.

He developed his own style of personal, unconventional diplomacy. When President Johnson addressed the Congress on his new voting-rights bill, Mr. Attwood sent copies of the speech, along with a personal note, to every member of the cabinet of Kenya, itself struggling with racial issues.

He resigned as ambassador in 1966 to become editor in chief of Cowles Communications, where he oversaw several periodicals including Look. During his tenure, the magazine serialized "The Death of a President," William Manchester's account of President Kennedy's assassination, which caused Jacqueline Kennedy Onassis to file suit against the magazine. The suit was dropped when Look agreed to modify some passages.

Mr. Attwood joined Newsday as president and publisher in 1970. He became chairman of the board in 1978 and retired in 1979 to write books.

The year before, Mr. Attwood was appointed by President Carter as the United States delegate to the UNESCO conference in Paris. In 1979, he was named to the United States National Committee for UNESCO.

He wrote "The Twilight Struggle: Tales of the Cold War," in 1987, published by Harper & Row. It combined his diplomatic experience with his journalistic skills in cautioning against the ultimate failure of the Cold War. At his death, he and Mr. Yoakum had completed a political satire, a handbook for politicians, to be published by Harper & Row.

Mr. Attwood was born in Paris. He graduated from Princeton University. Among his many journalism awards were the George Polk Memorial Award and the Newspaper Guild Page One Award.

He was a former trustee of Princeton and a former trustee of the Samuel H. Kress Foundation. He was a member of the Council on Foreign Relations and the Century Association, the Council of American Ambassadors, the American Foreign Service Association and the Overseas Development Council.

Surviving are his wife, Simone; a son, Peter, of Los Angeles; two daughters, Janet Hoglund of Greenwich, Conn. and Susan Attwood of New Canaan and three grandchildren.

PRESQUE ISLE AS PARADISE

Mr. COHEN. Mr. President, I would like to call the Senate's attention to an article that appeared recently in the Maine Times dubbed "The Littlest TV Station, Life at Channel 8 in Presque Isle."

Now channel 8, which sits in the far northern reaches of my State, is not really the littlest TV station, although it comes close. There are 213 television markets in the United States, and Presque Isle ranks 205.

The article has another headline, "Presque Isle as Paradise," which I would have to agree with. Probably few, if any, of those other 212 television markets can boast of a station in such picturesque surroundings, nestled among potato blossoms in summer and in a beauteous snow field in winter.

Channel 8 may be small, but what it lacks in size, its staff, under the able stewardship of news director Sue Bernard, makes up for in enthusiasm, dedication and hard work bringing the news of Maine and the world to its loyal following of viewers.

It should also be noted that Lincoln Furber, the author of the article, although a professor at American University here in Washington, also has New England roots. He summers in our own Boothbay Harbor and hails from Massachusetts.

I thought the Members of the Senate would be interested in reading about channel 8, and I ask that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Maine Times, Mar. 31, 1989]

PRESQUE ISLE AS PARADISE

(By Lincoln M. Furber)

For some people in the television news business, working at a TV station in one of the smallest markets in the country would seem like a job out at the farthest point in the universe. Take WAGM-TV, Channel 8 in Presque Isle, for example. The station sits on the edge of a potato field three miles north of town. Bangor is the nearest big city, 120 miles to the south. The station's salaries are ridiculously low in an industry that pays some people more than a million dollars a year. It does not have "state of the art" technical equipment. News reporters have to use compact cars to get around. Compared with most television markets, there are very few people in the area to watch their programs. And, there are other drawbacks as well, like the tough Maine winters, rural isolation, and even the roof of the station building itself.

To the people who work there, though, it is something else. In fact, to one anchorman, a person who has had substantial experience in a far larger market, it is paradise.

On the list of television market sizes in the U.S. Presque Isle ranks very close to the smallest. There are 213 such markets in all, starting with New York and ending with Glendive, Mont. Presque Isle is 205. The little city has a population of 11,000. WAGM counts some 33,000 TV households in the U.S. and a similar number across the nearby border in Canada. This is a viewing audience that is a fraction of most television stations.

For such a small market, however, WAGM-TV has a respectable contingent of news people. The news director, Sue Bernard, has enlarged the staff from three when she took over the job seven years ago, to its present complement of two anchor/reporters, six reporters, and three photographers.

These broadcast journalists seem to fall into two groups: those who are really at home there and the ones who are starting out in the business and are just passing through. For both groups in this eighth smallest television market, life and work are satisfying and personally profitable.

Sue Bernard feels at home there. She is a native of Fort Fairfield, a few miles away, where she still has family. She spent some time working in stations in Boston and Portland, but found that she was spending a lot of money coming home weekends, so she moved back. Her love for her work is obvious as she expresses her affection for her reporting staff and her continuous excitement about the kinds of stories she covers. She anchors the important 6 p.m. newscast and has a deep pride in its success. It garners 80 percent of the viewing audience at that hour and while it is true that there is no competitive local station for viewers to watch, that figure is still startling, given the increase in cable and VCR use everywhere. In fact, she says, it is the highest rating of any such newscast in the country. News director Bernard has had offers to go elsewhere, but, as she says, they came at inconvenient times, which means she was so embroiled in her job and felt so loyal to the station, that she would not consider moving.

A man who used to be the news director and now is the agriculture and forestry specialist for the news department is even more devoted to his life in Presque Isle. John Logan lives on a 40-acre farm and says he can walk out his back door and head west for 40 miles and not come upon a road. "Long ago," he says, "I decided that lifestyle was a lot more important than making money."

Logan drives to work with a 20-foot canoe strapped to the roof of his jeep. and he delights in explaining how successful his unique "Potato Pickers Special" program is. The annual offering is for potato farmers when harvest time arrives. Starting at 4 a.m., in a highly informal setting (which includes volunteers in the background making breakfast for the people on the program) information is offered about weather conditions, available workers, which farmers need workers that day, and anything else of interest to people whose livelihood depends on the potato harvest. The program is presented daily throughout the harvesting season.

Reporter Joe Clukey got married to a local girl a year ago and they do not plan to go anywhere else if they can help it. Joe is from Island falls, some 75 miles away. His occupation has put an unusual burden on him. The sports director at the station is Rene Cloukey and it was felt that Clukey and Cloukey were so close there might be some confusion for the viewers. So, Joe Clukey took a family name, Prescott, for his on-air name. Which has been fine, he said, except when he deals as a newsman with people he's known all his life and they can't figure out who he is.

Being from the area, as Bernard Logan, Clukey, and some others are, can have other disadvantages too. Every day they have to go out and cover people in the news and if you have been around long enough, there will come a time when you are put in the position of covering someone with whom you have a very close connection. News cameraman Orpheus Allison lives with his grandmother and mother. His mother is active in politics. She is even a member of the Presque Isle school board, which puts her son in what can be, as he put it, "an odd position:" namely, that someday he may have to run the camera in an interview with his own mother.

Joe Clukey had the unpleasant experience last summer of seeing an uncle become a central figure in a story one of Clukey's fellow reporters was covering. The story involved the rebuilding of a small dam, allegedly carried out by several men, including the uncle, without the required state permission—a possible civil crime. Also, Clukey's wife not long ago played golf in a foursome that included the husband of a woman who was later found dead on someone else's lawn in town. As Sue Bernard says, "We are always running into people we know as we do our job."

A non-native who has found a happy home at WAGM-TV is Andy Harvey. He brought several years of television experience with him when he arrived, having been with the CBS network and the CBS station in Los Angeles for almost 10 years. He had run his own television production business as well. The job at WAGM was his chance to do what he had hoped to do when he was a journalist major at college in Nevada. It put him on the air as a news anchorman, plus let him report one day a week, too. "It offers all I want," he says. He is responsible for producing the 11 p.m. news, as well as anchoring it, and he spends a lot of his time editing videotapes and writing scripts.

He brings a mellow view to the inevitable frustrations of a small market station, one that has equipment problems and occasional lapses of expertise on the part of people just learning their jobs. He says the equipment is better than he thought it would be. And the problems are essentially the same as they were in Los Angeles, the second biggest market in the country—time constraints, equipment allocation and personalities.

For this 34-year-old ex-Angeleno, the quality of life in the city of Presque Isle is equally gratifying. "L.A. is really bad," he says, "You'll wait a half an hour to an hour to eat in a restaurant. Here, you go in and sit down, and it's 'Hi, how are you honey? What do you want?' "

Harvey may or may not move on one day. While he stays, he is getting the experience he needs, and so are some others for whom the station is that critically important first job in TV.

For Sara Coddington, it was her first job after graduating from what she calls "Edward R. Murrow's school, Washington State University." The Seattle native has been at WAGM for two years, "paying her dues" and getting better at her profession. She takes to the pressure of nightly television news, finding it exciting to have only 30 minutes to put together a video package for the newscast. One of the most valuable parts of the experience for her and others just passing through is having to do almost everything herself. She comes up with a story idea, goes off and covers it, writes it, edits the videotape, and goes on the air with the final report. Having control over so much of the story is a boon and a far cry from the biggest markets where several people are involved in the production of every story. Her goal is a Charles Kuralt-type roving reporter job. She also has tentative hopes for a sideline, writing mysteries. In this, she calls upon the expertise of her new fiance, a Maine state trooper. It is television news that absorbs her primarily, though. "It's just fun," she says, "I can't imagine doing anything else."

Another reporter who felt lucky to land an on-air job at WAGM was Susan Raff. A New York native armed with a master's degree in communication from Boston's Emerson College, she jumped into the arena of small station news and got a chance to report, write, edit, produce and, like the others in the newsroom, even host a public affairs program every few weeks.

Presque Isle may be a small town but the stories the newspeople get to cover are not small time. News director Sue Bernard has been to Europe twice for the station. Once she covered the landing in France of the first transatlantic balloon flight, an achievement that was launched from Presque Isle. And thanks to the presence of Loring Air Force Base, she went abroad last summer on a defense story.

There are, of course, those stories that seem unique to rural stations. A recent transmission over the police scanner, the device that provides the newsroom with all radio communications among local police officers, referred to an incident at the Canadian border, just 12 miles away. "There's a small lamb running around at the P.O.E. Someone nearly hit it, the dispatcher announced. "I'll go over and take a look around," an intrepid officer replied. The reporters in the newsroom ignored this one.

For stories that are too far away to be covered by station personnel, WAGM benefits from an arrangement with sister affiliate stations WABI in Bangor and WGME in Portland. Those stations can beam their news stories via satellite to WAGM and such stories frequently flesh out WAGM's newscast providing broader coverage of other happenings in Maine.

An excellent resource of experts on virtually any topic is right in town on the campus of the University of Maine-Presque Isle.

The station also has developed a small network of stringers, people who own video cameras and will cover a story and bring it in, in hopes of making $25 if it gets used. Such people can prove invaluable when the newsroom's reporters and cameramen are all tied up, or the distance to a story is just too far to go.

There is no question that the life of a broadcast journalist in Presque Isle has great similarities to that of news people in Boston, New York, and Los Angeles. Though on a smaller scale, the excitement is there, the pressures are there, and the satisfaction of knowing you have done a good job on a tough story is there. But, there are quantum differences, too. There is a need to do everything yourself because the staff is so small. There is a need to travel many miles to get a story, not just a few blocks, because the population is so spread out. And, as is the case in the station's only studio, there is a need for the anchors doing a newscast to speak up good and loud during thunderstorms because the pelting rain on the station roof creates a din which the microphones pick up.

All this does not seem to matter, though. Several resumes of eager applicants from around the country arrive every week on Sue Bernard's desk. The news director reflects why they keep coming. "I have fun in the job," she says, and that really is some-

thing which anyone can do in one of the smallest television markets in the country.

THE STRATEGIC IMPORTANCE OF THE MIDDLE EAST—A WELL-KEPT SECRET

Mr. HELMS. Mr. President, last week our country was honored with the visit of two distinguished world leaders—Prime Minister Yitzhak Shamir of Israel, and President Hosni Mubarak of Egypt. The Senate Foreign Relations Committee was privileged to meet with both.

The visits of these two world leaders provided an opportunity for the administration, Congress, and many Americans to focus on the affairs of the Middle East. During the week of the visits, some incisive opinion pieces were published in the New York Times, the Wall Street Journal and the Washington Post. Each warned of the risk to our country should we fail to look at the true complex situation in the Middle East which lies beyond the simple explanations of the major media.

Charles Krauthammer, writing in the Washington Post on April 7, pointed out how the media has made a sympathetic figure out of the young Palestinians throwing rocks to further a liberation movement. But, as Krauthammer observes, it should be recognized that the young rock throwers will not be the ones who would rule a PLO state; it would be armed PLO terrorists, each quickly becoming a pawn in the large Middle East conflict. A PLO state, Krauthammer concludes, would be economically and politically unviable, and a constant force for instability in the region, directly threatening America's closest friends.

The New York Times of April 4, A.M. Rosenthal did what too few in the media have done—expose the massacre the Lebanese are now suffering at the hands of a Syrian effort to destroy and dominate Lebanon. Rosenthal points out that Syria will not rest until it fulfills the dreams of President Assad for a Greater Syrian Empire, and asks if Syria will not spare its own Arab brethren in Lebanon, how can it be expected to spare Israel?

In a Wall Street Journal editorial of April 5, entitled "Middle Eastern Realities," the editors discuss the sober realization gained by a visit to Judea and Samaria of the precarious strategic military position in which Israel would be forced if it were to relinquish the territories.

Mr. President, it was during a similar visit to Judea and Samaria a few years ago that I was similarly struck by the strategic importance of these lands and came to the realization that forfeiting this territory could prove fatal to Israel—and disasterous to America's strategic interests in the Middle East.

I have always found Bill Safire to be a most incisive writer. His column in the New York Times of April 6 recounts Mr. Safire's recent conversation with President Mubarak. He discussed Prime Minister Shamir's proposal for elections in the territories. As Mr. Safire points out, the Middle East would likely be a more stable and peaceful place if more of its leaders were selected at the ballot box—which is no doubt the reason why the PLO is so opposed to elections.

Mr. President, the situation today in the Middle East holds many potential dangers for America's interests in the region.

With the PLO continuing along the path of its phased plan for the destruction of Israel, with Syria annihilating the remains of Beirut at the rate of 20,000 shells a day, and with Libya building a chemical weapons plant and buying long-range fighter-bombers it is incumbent on all Senators to direct attention to the true story in the Middle East.

Mr. President, I ask unanimous consent that all four articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 6, 1989]

"YOU, TELL HIM THIS"

(By William Safire)

WASHINGTON.—Israel's Prime Minister, Yitzhak Shamir, sent this invitation to Egypt's President, Hosni Mubarak: Stay an extra day in Washington and let us meet in President Bush's office. The Egyptian refused.

Mr. Bush, who had been asked by Israel to facilitate these talks, did nothing to bring the Israeli and Arab leaders together. Instead, he damaged his credibility as mediator by calling for "the end of the occupation" of territories Israel considers vital to its security.

Why did Mr. Bush gratuitously insult Israel's elected leader by announcing his conclusion before Mr. Shamir could even make his case?

At a reception for Mr. Mubarak in the home of the Vice President, I put that to Brent Scowcroft, our national security adviser. He would say only, "We did not intend to make news."

If that is true, then the State Department, the N.S.C., which cleared it, and the President who spoke the blunt words did not consider as newsworthy a U.S. call for Israel to get out of the West Bank. Such ignorance of a change of position would reveal incredible ineptitude at all levels.

I think the statement was not a mistake, but was a Bush-Baker calculation, more heavy-handed than evenhanded, to pressure Israel and placate the P.L.O. Many in the diplomatic press corps swallowed State Department protestations that nothing was new, but Barry Schweid of the A.P. and Tom Friedman of The New York Times put that major change in their leads.

The Egyptian Ambassador, Raoufel-Reedy, spotted me at the fruitkebab table and motioned me over to meet his boss. I cheerfully identified myself as a right-wing pro-Israeli hawk and asked Mr. Mubarak why he had refused to meet Mr. Shamir in the Oval Office.

"I once offered to go to Jerusalem," said President Mubarak animatedly, "and he issued the invitation, but then he started talking about his three 'no's,' so how could I go? What would be the public opinion?"

He left out the part about conditioning his visit on Israeli acceptance of an international conference, but my concern was this week's snub: What would have been the harm in meeting in Washington, since both were in town?

"To talk about what?" he counterqueried.

Free elections on the West Bank and Gaza, for a starter.

"Free?" He made a skeptical face. It's not for the press to negotiate for anybody, but since he was asking, I threw in the compromise being bruited about: free elections under some sort of international supervision.

As if he had been waiting for that precise formulation, The President of Egypt leaned forward and put his finger on my chest. "You tell them this. You tell him if he is willing to have elections under international supervision, I'll help."

How much will he help?

"I'll help to the maximum."

As God, and the V.P., our national security adviser, the Egyptian Ambassador and our nail-nibbling Chief of Protocol are my witnesses, that's what the man said. It's a good bet that's also what Mr. Mubarak said privately to Mr. Bush and Mr. Quayle.

Let us now review the state of play. Israel can be expected to hedge its free-elections proposal with restrictions, among them: not until the intifada violence stops; no P.L.O. candidates; the first stage only for municipal offices, and the polls supervised by Israelis with invited observers.

This opening position will be frowned on by Egypt as "not enough," dismissed by ABC News as "warmed-over Camp David" and denounced by Yasir Arafat, who worries about losing his authority to freely elected local Palestinian leaders.

However, the Shamir offer provides running room for mediators—even those who impose settlement terms before negotiations begin.

The intifada could cool it without agreeing to ice it; non-P.L.O. candidates could proclaim their P.L.O. affection; the municipal officers could have a territories-wide function; and while the Zionism-is-racism U.N. would hardly be disinterested, supervision by a few countries with democratic experience would be acceptable.

Now watch how the bash-Israel crowd tries to turn "free elections" into dirty words. Not "new"? Nothing could be newer to most Arabs than a secret ballot. Arab regimes do not tolerate elections that offer genuine choices; they do not want West Bank and Gaza Palestinians to lead the way because democracy is contagious.

But President Mubarak says to tell Mr. Shamir he is ready to "help to the maximum" to conduct such elections under international supervision. Message passed. Worth following up.

[From the Washington Post, Apr. 7, 1989]

A STONE'S THROW TO A PLO STATE

(By Charles Krauthammer)

Iraq is acquiring nuclear bombs. Syria already has poison gas. Saudi Arabia has long-range missiles. And now we learn that Libya, which is building a chemical weapons factory, is acquiring long-range fighter-

bombers. At which country do you think these weapons of extermination will be aimed?

The target, in Arab parlance, is not a country at all, but the "Zionist entity." (The fact that not a single Arab country has recognized Israel following Yasser Arafat's much heralded "recognition" of Israel last December shows that the rhetorical device, meant to impress eternally gullible Americans, was thoroughly understood by the Arabs to be meaningless.)

Nuclear bombs and poison gas and long-range missiles do not show up on American television. What shows up nightly are 16-year-old boys throwing stones at Israeli soldiers. The viewer can be foregiven for believing that Israel is threatened by no more than 16-year-old stone-throwers and for wondering at the hardheartedness of the Jews in denying these youths their own state on a small piece of Middle Eastern territory.

But in a Palestinian state, 16-year-old boys will not rule. The armed factions of the PLO will. The West Bank will become the locus of murderous conflict between PLO factions, each backed by an Arab patron, precisely as has happened in Lebanon for the last 14 years. (Today's Lebanese lineup card has, among other things, Iraqis arming Christians, Syrians arming Druze, and Iranians arming Shiites). After the occupation, the West Bank, now Belfast, becomes Beirut.

The real danger from a West Bank state is not stones thrown into Tel Aviv, but inherent instability. Being nonviable economically and politically, a West Bank state would need to expand into its neighbors—Israel and Jordan—in order to become viable. The resulting irredentist turmoil and agitation would invite intervention from states such as Syria and Iraq.

These states, implacably opposed to Israel's existence and now possessing not only huge tank armies but also weapons of mass extermination, await two developments before risking a war for the final liberation of Palestine; a gravely weakened Israel (i.e., an Israel that had given up the strategic depth of the West Bank) and the opportunity to intervene on behalf of a beleaguered state of Palestine. A PLO state provides both of these indispensable conditions for war.

A PLO state, an idea now as fashionable as the checkered kafiyeh, is a trap. What is the alternative? The alternative, outlined by Israeli Prime Minister Shamir on his visit this week in Washington, is a peace process that rests on two principles: a transitional period and elections.

Whatever arrangements Israel and the Palestinians make, no ultimate solution is attainable now. There has to be a transition period during which each side can demonstrate to the other its bona fides. An Israeli poll taken last week shows that two-thirds of Israelis believe that the Palestinians will not be satisfied with a West bank state. They have reason so to believe. Only two weeks ago, Arafat said that "the Declaration of Palestinian Independence constitutes a beginning of the real confrontation of the Zionist project on the land of Palestine itself." Leila Khalid puts it more bluntly: "We will return to Nablus and then move on to Tel Aviv." Only time will permit a demonstration that the Palestinians do not truly intend what they now say they intend for Israel.

The second idea is elections on the West Bank to produce an indigenous Palestinian negotiating authority. The ferocity with which this idea has been attacked by non-West Bank Palestinians makes one wonder what they are so afraid of. Prof. Rashid Khalidi, writing from Chicago, says there could be no real election under the harsh conditions of Israeli occupation.

The idea that a secret ballot cannot be conducted honestly by the Israelis is simply false. No one disputes the honesty of the West Bank municipal elections conducted in 1976. (In fact, they were so honest in expressing Palestinian discontent that the Israeli government eventually fired the elected mayors.)

Moreover, Palestinian propagandists never hesitate to use polling data from the West Bank to prove the fealty of the West Bankers to the PLO. An opinion poll is an open ballot. Polls require conditions of far more political freedom than do secret ballots. Khalidi and other PLO propagandists freely invoke West Bank polls, yet now pretend that a secret ballot is not to be trusted. The argument is bogus. It reflects a deep fear by Palestinian exiles—most of whom come from (and thus want to take over) not the West Bank but Israel—that with elections they are going to lose the initiative to West Bankers, who might ultimately be more prepared for compromise.

Shamir's peace initiatives are already being derided as Camp David "old ideas." Old? Do treaties now carry a 10-year statute of limitations? At Camp David, Israel gave up all of Sinai in return for certain arrangements and promises. Israel is now being asked to give up more land in return for more arrangements and promises. Will Israel be told 10 years later that these arrangements and promises are "old," that Israel is now required to come up with "new ideas" to satisfy new and more expansive Palestinian aspirations for—who knows?—the Galilee? Trashing Camp David does not give Israel confidence that the United States will stand by its commitments when the Arabs, having pocketed Israel's concessions today, demand more tomorrow.

Elections, autonomy, transition. Shamir's ideas may not be new—novelty is a highly overrated diplomatic commodity—but they are realistic. They are the best way toward Bush's proclaimed goal of "Palestinian political rights." Only Israel can grant these rights. And only under conditions of prudence and reciprocity will Israel grant them.

[From the Wall Street Journal, Apr. 5, 1989]

MIDDLE EASTERN REALITIES

The Middle East, its problems normally far away, is on America's doorstep this week. Israel's Yitzhak Shamir and Egypt's Hosni Mubarak are both making separate visits to talk with President Bush. With Secretary of State Baker in the lead, Mr. Bush is talking about an international peace conference and the need for "a new atmosphere." Over the years, Washington probably has spent more time sitting in rooms in Washington talking about the Middle East than any other foreign-policy problem. We suspect the quality of that talk would benefit greatly if both George Bush and Jim Baker personally toured those portions of the old Palestine Mandate that sit at the heart of this matter.

We did so recently, particularly the hills of Samaria. The United Nations had allotted these hills to the Jordanians in 1947. They would still have them but for the fact that in 1967 during the Six Day War, when it looked as if Israel would be destroyed by Syria and Egypt, Jordan belatedly joined the fray, only to lose Judea as well as Samaria. Arab attacks in 1973 failed to destroy Israel, and Jordan abandoned its claim to the lands last year.

We entered by car northeast of Tel Aviv, at a point where according to the old lines of 1949, Israel was but nine miles wide. The rocky hills rise sharply (some, but not all, have enough grass to graze goats, and in the valleys there is increasing agriculture by Arabs and Jews). In 1977 in Judea and Samaria there were 25 Jewish settlements and two more under construction; today there are 138. Our guide—Ariel Sharon, who was a minister involved in the development of this region when much of the expansion was planned—routed us near or through a dozen of these towns, neat concrete and stucco housing, some with factories, university or agricultural buildings.

To the Israelis, the most striking thing about this area is its military significance by three important measures: depth (from the Samarian hills one can scan with the naked eye the Israeli coast and its main population centers); the eastern front (a quick drive inland and one is looking at the Jordan River and the potential invasion routes of Jordan, Syria and Iraq); and Jerusalem (these hills feed to the approaches of Israel's capital). Jewish towns now overlook the most important military vantage points, intersections and roads.

It is sobering to stand in the Samarian hills with General Sharon, to listen to his explication of their military significance and to be reminded by him that Czechoslovakia's key defensive positions lay in the Sudetenland, which was lost through peace negotiations at Munich. One thing the visitor notices is how small the perspectives are in this region, which is why global strategists worry about a conflict today escalating out of control. Imagine, for instance, the implications of Iraqi chemical weapons being launched indiscriminately aboard inaccurate missiles. Israel would no doubt take what measures it thought necessary to end an assault by such weapons.

It is difficult to find in Israel a responsible official who doubts that the Arab riots and the current peace overtures are part of a broader military strategy. While the PLO's chairman, Yasser Arafat, is talking peace to the Americans and the Western press, his PLO colleagues are reminding the Arabs of the "phased plan" adopted in 1974 by the Palestine National Council in Cairo. The plan eyes the destruction of Israel in phases, starting with the declaration of a PLO state on any land that can be gained and operating from there.

As recently as November of last year, the PLO journal Al-Yom Al-Sabah quoted Abu Iyad, Mr. Arafat's key deputy, as saying that the PNC decisions last year in Algiers, which set the stage for the current peace overtures, "are a refinement of the Palestinian position as adopted in the Phased Plan in Cairo 14 years ago.

The PNC session in Algiers in 1988 was meant to revitalize this program and to create a mechanism to get it moving."

In January, the Agence France Press quoted Nayif Hawatmeh, chairman of the Democratic Front for the Liberation of Palestine, a PLO constituent, as saying, "The Palestine struggle should now be aimed at creating a state in the West Bank and Gaza. This will not prevent us from achieving our final aim of liberating all of Palestine." Mr. Bush's State Department Arabists undoubt-

edly can provide him with reams of this documentary material.

Even in the volatile politics of the Middle East it's important to note gradations of responsibility among the players. Egypt concluded and has honored a peace with its Israeli neighbor. In resolving the Taba dispute recently. Egypt showed an ability to negotiate responsibly toward a goal, rather than bluster for the world media. Jordan obviously wants out of this conflict. It is harder to guage precisely the intentions of a Saudi Arabia that is embarking on a $30 billion arms-buying binge.

But can Israel assume that any of these could stand aside in a war provoked by Arab hotheads such as Iraq and Syria? Israel faces on its eastern front more combat divisions than the 21 active divisions that exist in the U.S. Army; Iraq's army alone has ballooned since 1979 to 47 divisions from seven. Israeli analysts have little doubt that were a Palestinian state to be set up on the West Bank the region's forces would gradually (or suddenly) be brought forward and, without a buffer, the Jewish state would be in mortal peril.

To put it plainly, what is at stake in any "new" political arrangement is Israel's survival. And in turn what is at stake for the United States is the credibility of this country's commitment to an embattled nation that has remained a democratic outpost for 40 years. Rather than see Israel destroyed in any war, the U.S. almost certainly would feel forced to intervene, politically and perhaps militarily. If, however, it remains the goal of U.S. policy to prevent war in this region, it is no doubt easier to do so by making its loyalties clear now, rather than when the armies are moving.

[From the New York Times, Apr. 4, 1989]

(By A.M. Rosenthal)

THE SYRIAN EMPIRE

Every day, artillery shells and rockets launched by Syria fall on Beirut. They come from within the city itself or bases just outside it.

Every day, Lebanese die under the bombardment—a dozen, 30, maybe 50. Year after year of war and terror have made collecting precise numbers of the dead and maimed a fantasy. It is enough to live through the day.

The Lebanese Ambassador to the United States, Dr. Abdallah Bouhabib, says Syrian attacks are wiping out crops, water and power stations and strangling the country. He says on the phone he has formally appealed to President Bush to try to get the Syrians to cease fire.

The Ambassador also says the 35,000 Syrians are stepping up the shelling—20,000 shells in one day. And he says Syria now is asking Iran to order Hezbollah, Teheran's terror organization in Beirut, into action against the Lebanese Government.

But the world pays virtually no attention. No protest demonstrations, no United Nations denunciatory resolutions, none.

The Syrians, who hold down 70 percent of the country, are free to murder as many Lebanese as their shells can reach; nobody seems to mind very much.

Western journalism is largely absent. The danger of being kidnapped and held a chained hostage is too high—another victory for terrorism.

The Soviet Union is Syria's ally and military supplier. The third world obviously does not think that Arab killing Arab is anything to make a fuss about.

The silence chills the marrow. So does the astonishing fact that Israel, next door to Lebanon and Syria, is being pressured to risk its survival on the mad assumption that the Syrians would not try to do to the Jews what they have so eagerly done to their Arab brothers; slaughter them in the cause of Syrian empire.

Western nations and the Soviet Union lecture Israel solemnly about its obligation to prepare the way at once for another Palestinian state under the domination of the Palestine Liberation Organization.

Yet the major powers know Syria has sworn it will never rest until Israel is destroyed. The Soviet treaty with Syria contains clauses that challenge the very existence of Israel by equating Zionism with colonialism and racism.

They know high P.L.O. officials still tell their followers that a small, new Palestine state would be the first phrase of a plan to eradicate Israel.

And the major powers know the Syrian dream goes much further—that one day all of the area, including Lebanon, Jordan and all of Palestine after Israel's destruction, will be part of a Greater Syrian Empire.

But in all the lectures to Israel, not a word is said to acknowledge that it would be only a matter of time, not much time, before the Palestine would begin to boil with the demand for expanding into Israel.

Would Yasir Arafat resist that pressure? Could he? How long before Palestinian groups began killing each other with mortar fire and rockets, as rival Lebanese and Palestinian groups do in Lebanon?

Does anybody really believe Syria would not foment civil war in the new Palestine and not contribute its own bombardment?

Israel would have only two choices: to wait for Palestinian or Syrian rockets to land in Israel, or move its troops first.

If Israelis want to gamble their destiny on a change of heart in Syria and the Palestinian irredenists, that will be their affair. But for the West and the Soviet Union to pressure them into it and for individual Americans, Jew or non-Jew, to add to that pressure, seems to me sad and dangerous.

It would also be dangerous for the Israelis to go on ignoring the Palestinian reality, as their Governments did for so many years. Prime Minister Yitzhak Shamir, who is due in Washington this week, will propose West Bank elections to pick Palestinian negotiators. That would begin the laborious process of discussion and testing outlined in the Camp David agreement a decade ago, which he once opposed.

The Palestinians will reject that at first. Why not? The insurrection has created world sympathy for them and has made hostility toward Israel not merely respectable but terribly fashionable.

But Palestinians know the insurrection has lasted so long—15 months—because the Israelis are unwilling to do what the Syrians do to opposition in Lebanon and their own country: end it with slaughter. In a Syrian empire, any Palestinian rock-throwing intifada would last about one day.

Israel watches what happens in Lebanon, hour by hour. It is likely that the lesson Syria is teaching is also being studied on the West Bank.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE COMMODITY CREDIT CORPORATION MESSAGE FROM THE PRESIDENT—PM 33

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the provisions of Section 13, Public Law 806, 80th Congress (15 U.S.C. 714k.), I hereby transmit the report of the Commodity Credit Corporation for fiscal year 1987.

GEORGE BUSH.

THE WHITE HOUSE, *April 18, 1989.*

REVISED DEFERRALS OF BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 34

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified on April 11, 1986, was referred jointly to the Committee on Appropriations and the Committee on the Budget:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report five revised deferrals of budget authority now totaling $649,663,811.

The deferrals affect programs in the Departments of Agriculture, Defense-Civil, Energy, Health and Human Services-Social Security Administration, and Justice.

The details of the deferrals are contained in the enclosed report.

GEORGE BUSH.

THE WHITE HOUSE, *April 18, 1989.*

MESSAGES FROM THE HOUSE

At 2:44 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 45. Joint resolution designating May 1989 as "Older Americans Month".

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 96. Concurrent resolution providing for participation by delegations of Members of both Houses of Congress in ceremonies to be held in April 1989 in New York City marking the 200th anniversaries of the implementation of the Constitution as the form of government of the United States, the convening of the first Congress, the inauguration of President George Washington, and the proposal of the Bill of Rights as the first ten amendments to the Constitution; and

H. Con. Res. 97. Concurrent resolution providing for a conditional adjournment of the House from Tuesday, April 18, 1989, until Tuesday, April 25, 1989, and a conditional recess or adjournment of the Senate from Wednesday, April 19, or Thursday, April 20, or Friday, April 21, or Saturday, April 22, 1989, until Monday, May 1, 1989.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 45. Joint resolution designating May 1989 as "Older Americans Month".

At 5:34 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2) to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

For consideration of the House bill, and the Senate amendment (except section 115 and title II), and modifications committed to conference: Mr. HAWKINS, Mr. MURPHY, Mr. FORD of Michigan, Mr. CLAY, Mr. WILLIAMS, Mr. HAYES of Illinois, Mr. PERKINS, Mr. PAYNE of New Jersey, Mr. GOODLING, Mr. PETRI, Mr. BARTLETT, Mr. ARMEY, and Mr. FAWELL.

For consideration of section 115 and title II of the Senate amendment, and modifications committed to conference: Mr. ROSTENKOWSKI, Mr. JACOBS, and Mr. ARCHER.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 20. An act to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes;

H.R. 1385. An act to make permanent the Martin Luther King, Jr., Federal Holiday Commission;

H.R. 1487. An act to authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes; and

H.R. 1722. An act to amend the Natural Gas Policy Act of 1978 to eliminate wellhead price and nonprice controls on the first sale of natural gas, and to make technical and conforming amendments to such act.

The message further announced that pursuant to section 5 of Public Law 100-382, the Speaker appoints Mr. Gordon Ambach, from private life, as a member on the part of the House to the Advisory Committee of the White House Conference on Library and Information Sciences, to fill the existing vacancy thereon.

The message also announced that pursuant to the provisions of 22 United States Code 276d, the Speaker appoints as members of the United States delegation to attend the meeting of the Canada-United States Interparliamentary Group the following Members on the part of the House: Mr. GEJDENSON, Chairman, Mr. FASCELL, Vice Chairman, Mr. HAMILTON, Mr. DE LA GARZA, Mr. OBERSTAR, Mr. LAFALCE, Mr. KOSTMAYER, Mr. BROOMFIELD, Mr. HORTON, Mr. STANGELAND, Mr. MARTIN of New York, and Mr. MILLER of Washington.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 20. An act to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes; to the Committee on Governmental Affairs.

H.R. 1487. An act to authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes; to the Committee on Foreign Relations.

H.R. 1722. An act to amend the Natural Gas Policy Act of 1978 to eliminate wellhead price and nonprice controls on the first sale of natural gas, and to make technical and conforming amendments to such act; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-61. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Appropriations.

HOUSE JOINT MEMORIAL NO. 14

"Whereas, the Idaho National Engineering Laboratory (INEL), a Department of Energy facility, is sited over the Snake River aquifer which is the sole source of domestic and irrigation water for thousands of Idaho's residents and a major tributary to the Snake River; and

"Whereas, over 4.3 million cubic feet of transuranic waste is currently held in above ground storage or buried in shallow trenches; and

"Whereas, some of these wastes were not stored or buried in a manner meeting current requirements; and

"Whereas, officials of the Department of Energy have agreed to commit substantial resources to accelerate the cleanup process; Now, therefore, be it

Resolved, by the First Regular Session of the Centennial Legislature, the House of Representatives and the Senate concurring therein, that we commend the Department of Energy for this significant step in providing a solution to the waste storage problem; and be it further

Resolved, That we request the Congress of the United States to support the efforts of the Department of Energy by appropriating the funds necessary for the cleanup of the nuclear and toxic waste improperly stored or buried at the INEL site, for the safe transportation of these materials from the state of Idaho and/or for the storage of these materials in a facility designed for that purpose; and be it further

Resolved, That there should be a continuation of full, open debate about the political, economic, and environmental questions of future projects, of waste disposal, and the possible impact of these projects upon the irreplaceable natural resource of the Snake River aquifer; and be it further

Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this memorial to the honorable President of the United States, George Bush, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

POM-62. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Commerce, Science and Transportation.

"HOUSE JOINT MEMORIAL NO. 9

"Whereas, Congress enacted the Commercial Motor Vehicle Safety Act of 1986 to establish minimum standards for state testing and licensing of commercial motor vehicle drivers and to require certain information to be shown on commercial drivers' licenses; and

"Whereas, the vehicles affected are defined by the act as those vehicles certified by the manufacturer to be over 26,000 pounds gross weight; and

"Whereas, approximately 40,000 highway maintenance trucks operated by local government entities come under the provisions of the Commercial Motor Vehicle Safety Act of 1986; and

"Whereas, drivers of local highway, road and street maintenance trucks are trained employees and are committed to the integrity of organizational discipline; and

"Whereas, local-entity highway maintenance vehicle drivers operate only within city and county boundaries and normally during periods of lowest daily traffic volumes, thus presenting limited exposure in predominantly low-speed areas; and

"Whereas, the described maintenance vehicles are in the lower range of gross weights in excess of 26,000 pounds, have a satisfactory safety record, and are not involved in hauling for commerce. Now, therefore, be it

"*Resolved* by the members of the First Regular Session of the Centennial Idaho

Legislature, the House of Representatives and the Senate concurring therein, that we petition the United States Congress to exempt local-entity highway maintenance vehicle drivers from the requirements of the Commercial Motor Vehicle Safety Act of 1986; and be it further

"*Resolved*, That the Chief Clerk of the House of Representatives and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, the Secretary of the United States Department of Transportation, the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and the congressional delegation representing the state of Idaho in the Congress of the United States."

POM-63. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Energy and Natural Resources.

"RESOLUTION NO. 156

"Whereas, many nations previously without nuclear weapons are now joining the "Nuclear Club" by developing the capacity to produce nuclear weapons, including many nations with extremely volatile and anti-western governments; and

"Whereas, as the number of nations with nuclear capabilities grows, it is less and less likely that international safeguards and limits on these dangerous weapons will be approved by all the nations that possess them, and as nations already in the Nuclear Club are producing newer, more accurate, and more destructive nuclear arms, the threat of nuclear war through accident or provocation looms ever larger over all the inhabitants of Earth; and

"Whereas, as leader of the free world, guardian of the Western democracies, and model of democracy in a world where the majority of inhabitants are denied basic human rights, the United States should employ its technology, as far as resources permit, to hold the threat of nuclear blackmail or annihilation at bay, and therefore should supplement its present strategic deterrence capabilities by developing and displaying strategic defense systems; and

"Whereas, America's policymakers should implement a strategy of defense, rather than a strategy of offense alone, to ensure that problems with the verification of existing or future agreements limiting strategic offensive weapons do not impinge upon the safety or freedom of Americans, a viable strategic defense system increasing the chances that Americans, and indeed all of humanity, could escape the specter of nuclear holocaust and conflagration, and, thus, American leaders should emphasize to Soviet leaders that the United States has embraced the concept of defense over offense, and regards a strategic defense system as a prerequisite to world stability in the nuclear age; Now, therefore, be it

"*Resolved*, That the Nineteenth Guam Legislature does hereby on behalf of the people of Guam endorse the concept of a viable strategic defense system that would increase our chances of surviving a nuclear attack, and does call upon Congress to fund the research and development of such a system to protect the United States and reduce the threat of nuclear was; and be it further

"*Resolved*, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President and Vice President of the United States; to the Speaker of the United States House of Representatives; to Congressman Ben Blaz; and to the Governor of Guam."

POM-64. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Energy and Natural Resources:

"HOUSE JOINT MEMORIAL NO. 7

"Whereas, the Legislature of the state of Idaho finds and declares that there is a need for additional reservoir storage in the upper Snake River Basin to meet existing and future water needs during periods of drought; and

"Whereas, the resolution of federal reserved water rights in the Snake River Basin whether through a negotiated process or through litigation will involve the acquisition of additional storage to meet existing water uses; and

"Whereas, the Teton Dam and Reservoir Project authorized by Congress in 1964 for irrigation, flood control, power, recreation and fish and wildlife remains as a moral if not legal obligation of the federal government to the state of Idaho; and

"Whereas, the economic feasibility of rebuilding the Teton Dam and Reservoir Project should be based on the planning criteria including the interest rate in effect at the time the project was authorized in 1964; and

"Whereas, some of the project facilities which remain after the tragic loss of Teton Dam in June, 1976, are usable and will contribute toward the economical rebuilding of the project; and

"Whereas, the local people strongly support the need for the Teton Dam and Reservoir Project and request that it be rebuilt at the earliest opportunity: Now, therefore, be it

"*Resolved* by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we do hereby petition the Congress of the United States to act immediately to authorize and appropriate funds to the U.S. Bureau of Reclamation for an evaluation of the feasibility of reconstruction of the Teton Dam and Reservoir Project; and be it further

"*Resolved*, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copies of this Memorial to the President of the Senate and the Speaker of the House of the United States Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

"HOUSE JOINT MEMORIAL NO. 13

"Whereas the state of Idaho is large and diverse in area and generally not densely populated; and

"Whereas the problems regarding solid waste facing Idaho and other intermountain western states are much different than the problems regarding solid waste facing highly urbanized states; and

"Whereas regulations dictated for solid waste management practices by the final adoption of 40 CFR Parts 257 and 258 Solid Waste Disposal Facility Criteria referred to as Subtitle D regulations will severely impact our state; and

"Whereas Idaho has not experienced major problems because of past solid waste management practices; and

"Whereas the costs of implementing the final adoption of Subtitle D regulations will severely impact our limited population by placing substantial financial burden on our citizens;

Now, therefore, be it

"Resolved by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we commend the Environmental Protection Agency for this significant step in providing a solution to the potential pollution problems that can occur with landfills and that we request the Environmental Protection Agency to develop Subtitle D regulations that provide for consideration of site-specific conditions that warrant exemptions; and be it further

"Resolved, That we request the Congress of the United States to support the efforts of the Environmental Protection Agency by appropriating the funds necessary to implement the final adoption of Subtitle D; and be it further

"Resolved, That the Legislature of the State of Idaho requests that the Environmental Protection Agency consider and incorporate recommendations, that will be forthcoming from Idaho, into the Subtitle D regulations; and be it further

"Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward copy of this Memorial to the honorable President of the United States, George Bush, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States and to the Administrator of the Environmental Protection Agency, William Reilly."

POM-66. A petition from a citizen of the city of Silver Spring, Maryland, to conduct public hearings on operation and enforcement of the Foreign Agents Registration Act of 1938 as amended; to the Committee on Foreign Relations.

POM-67. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on the Judiciary.

"HOUSE JOINT MEMORIAL NO. 6

"Whereas, a well educated citizenry is crucial to a self-governing nation; and

"Whereas, the Constitution of the United States is the fundamental document of the constitutional system of government under which we prosper; and

"Whereas, as a society we hold the Constitution of the United States, and the governmental system established pursuant to the Constitution, in high esteem; and

"Whereas, a thoughtful study of the Constitution is appropriate to each individual citizen and will serve as an opportunity to commit, along with our President ". . . to preserve, protect and defend the Constitution of the United States"; and

"Whereas, it is desirable that a national day of recognition be designated for the purpose of honoring the work of our nation's founders and studying the concepts embodied in their great work, the Constitution of the United States; and

"Whereas, September 17, 1787, is the date on which the Constitution was approved by all twelve state delegations at the Constitutional Convention, and signed by 39 of the 42 delegates present; Now, therefore, be it

"*Resolved* by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that we

urge the Congress of the United States to take steps necessary to designate September 17 as a National Constitutional Commemorative Day. National activities should be established and state and local jurisdictions should be encouraged to establish activities which would serve to enhance the level of knowledge about the Constitution of the United States and appropriately honor the work of the Constitutional Convention; and be it further

"Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, George Bush, the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

POM-68. A joint resolution adopted by the Legislature of the State of Idaho; to the Committee on Rules and Administration.

"HOUSE JOINT MEMORIAL No. 11

"Whereas, the American citizens, in the western United States as well as the eastern United States, are equal partners in the democratic process; and

"Whereas, with the advent of the eastern-based news media's early evening election projections, voters in the western United States have been taken for granted in presidential elections; and

"Whereas, early projections, made when polls in the western states are still open, create the impression that western voters have no role to play in the selection of our president; and

"Whereas, it is therefore time to restore the electorate of the western states to its rightful place in the political process; Now, therefore, be it

"Resolved by the members of the First Regular Session of the Centennial Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Idaho Legislature does petition the 101st Congress to reconsider legislation, introduced in its last session, to mandate that all polls in the continental United States close at the same time, 9:00 p.m. Eastern Standard Time, according to the following schedule: 9:00 p.m. Eastern Standard Time, 8:00 p.m. Central Standard Time, 7:00 p.m. Mountain Standard Time and 7:00 p.m. in the Pacific Time Zone, according to Daylight Saving Time; and be it further

"Resolved, in order to accomplish this closing time schedule, that Daylight Saving Time would be extended for two weeks in the Pacific time zone in presidential election years; and be it further

"Resolved, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States."

POM-69. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Veterans Affairs.

"JOINT RESOLUTION

"Whereas, many Maine Atomic Veterans have died of cancer, luekemia and other radiation-induced illnesses; and

"Whereas, Public Law 100-321 provides compensation to Atomic Veterans for certain illnesses but invokes a latency period of 40 years for certain cancers and 30 years for certain leukemias; and

"Whereas, Atomic Veterans who have either been diagnosed as having, or are deceased as a result of, colon cancer or cancer of the parotid gland are denied benefits by Public Law 100-321; and

"Whereas, colon cancer and cancer of the parotid gland are internationally recognized as being caused by radiation exposure; and

"Whereas, no concrete scientific evidence of the type that would be supported by application of the Reasonable Man Doctrine exists to substantiate latency periods; now, therefore be it

"Resolved: That We, your Memorialists, respectfully recommend and urge the Congress of the United States to grant presumptive compensation to Atomic Veterans for cancer of the colon and the parotid gland and to delete latency period requirements for radiation compensation from the law; and be it further

"Resolved; That a duly authenticated copy of this Memorial be immediately submitted by the Secretary of State to the Honorable George H.W. Bush, President of the United States, the President of the Senate and the Speaker of the House of the Congress of the United States, to each Member of the Senate and House of Representatives in the Congress of the United States from this State and to the Governors of the 50 United States."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works:

William G. Rosenberg, of Michigan, to be an Assistant Administrator of the Environmental Protection Agency.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Reginald Bartholomew, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Under Secretary of State for Coordinating Security Assistance Programs;

Paul D. Coverdell, of Georgia, to be Director of the Peace Corps;

Michael Hayden Armacost, of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Japan.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Michael H. Armacost.

Post: Japan.

Contributions, amount, date, and donee:

1. Self, none.

2. Spouse, Roberta B., none.

3. Children and spouses, Scott, Timothy, and Christopher, none.

4. Parents names, George H. and Verda H. Armacost (mother deceased). No good record, but estimated $2,500 for four years to various GOP candidates.

5. Grandparents names, deceased.

6. Brothers and spouses names, Samuel H. and Mary Jane Armacost (brother):

$4,000.00, 1984, Bank of America PAC.

$1,000.00, 1985, Bob Dole.

$1,000.00, 1985, Lincoln Club.

$3,000.00, 1986, PAC.

$1,500.00, 1986, Ed Zschau, U.S. Senate.

$1,000.00, 1987, Pete Wilson, U.S. Senate.

$500.00, 1988, Tom Campbell, U.S. House.

Peter and Sue Armacost (brother): $1,000.00 in contributions to various GOP candidates in Florida over past four years.

7. Sisters and spouses names, Mary and Jack Hulst, none.

James Roderick Lilley, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of China.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: James Roderick Lilley.

Post: Beijing, F.R.C.

Nominated: February 1, 1989.

Contributions, amount, date and donee:

1. Self, none.

2. Spouse, Sally Booth Lilly:

$125, 1986, GOP Victory Fund.

$120, 1986, Republican Presidential Task Force.

$30, 1986, Republican Party.

$195, 1987, Republican Presidential Task Force.

$250, 1987, George Bush for President.

$90, 1988, George Bush for President.

$60, 1988, Republican Presidential Task Force.

3. Children and spouses names, 3 sons, Douglas Taylor Lilley, Michael Bush Lilley, Jeffrey Beall Lilley, no known contributions.

4. Parents names, Frank Walder Lilley, deceased 1961. Inez Bush Lilley, deceased 1983.

5. Grandparents names, Frank Walder Lilley, deceased 1939, Rose O'Gorman Lilley, deceased 1943.

6. Brothers and spouses names, John Malcom Lilley and Ellen Lilley, no known contributions.

7. Sisters and spouses names, Elinore Lilley Washburn, and William Washburn, no known contributions.

Terence A. Todman, of the Virgin Islands, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Argentina.

(Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.)

Nominee: Terence A. Todman.

Post: Ambassador to Argentina.

Contributions, amount, date and donee:

1. Self, none.

2. Spouse, Doris W. Todman, none.

3. Children and spouses names, Terence Jr., Patricia and Elike Rhymer, Kathryn and David Browne, Michael and Lynn Todman, none.

4. Parents names, Rachel Callwood, Alphonse Todman, (deceased 1945) none.

5. Grandparents names, deceased 1915 and 1918.

6. Brothers and spouses names, Robert and Emelda Frazer, Bristol (deceased) and Edith Frazer, none.

7. Sisters and spouses names, Gladys and Elisha Jackson, none.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Elaine L. Chao, of California, to be Deputy Secretary of Transportation;

Wendell Lewis Willkie, II, of the District of Columbia, to be General Counsel of the Department of Commerce;

Rear Adm. Howard B. Thorsen, USCG as Commander, Atlantic Area, United States Coast Guard with the grade of vice admiral while so serving;

The following officers of the United States Coast Guard for appointment to the grade of rear admiral:

Joseph E. Vorbach
George D. Passmore, Jr.
Ernest B. Acklin, Jr.

The following officers of the United States Coast Guard for appointment to the grade of rear admiral (lower half):

John N. Faigle
Peter A. Bunch
David F. Ciancaglini
William J. Ecker

Mr. HOLLINGS. Mr. President, for the Committee on Commerce, Science, and Transportation, I report favorably three nomination lists in the Coast Guard which were printed in full in the CONGRESSIONAL RECORDS of January 3, February 8 and 22, 1989, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to request to appear and testify before any duly constituted committee of the Senate.)

By Mr. LEVIN, from the Committee on Armed Services:

Donald J. Atwood, of Massachusetts, to be Deputy Secretary of Defense.

(The above nominations were reported with the recommendation that it be confirmed, subject to the nominees' commitment to respond to request to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of January 3, February 21, March 1, March 6, March 7, March 9, and March 17, 1989 at the end of the Senate proceedings).

*In the Air Force there are 51 appointments to the grade of brigadier general (list begins with George K. Anderson) (Reference No. 73)

*In the Marine Corps there are 12 promotions to the grade of brigadier general (list begins with Wayne T. Adams) (Reference No. 83)

*In the Marine Corps Reserve there are two promotions to the grade of brigadier general (list begins with John Thomas Coyne) (Reference No. 84)

*In the Navy there are 22 promotions to the grade of rear admiral (list begins with Ralph Whitaker West, Jr.) (Reference No. 90)

*In the Navy Reserve there are 7 promotions to the grade of rear admiral (list begins with Stephen Gordon Yusem) (Reference No. 94)

**In the Army there are 94 promotions to the grade of colonel (list begins with Michael D. Benner) (Reference No. 114)

**In the Army there are 1,209 promotions to the grade of lieutenant colonel (list begins with Ralph P. Aaron) (Reference No. 115)

*In the Naval Reserve there are 8 promotions to the grade of rear admiral (lower half) (list begins with Thomas Christopher Irwin) (Reference No. 160)

**In the Army Reserve there are 605 promotions to the grade of colonel and below (list begins with Joseph E. Abodeely) (Reference No. 165)

**In the Navy there are 342 promotions to the grade of captain (list begins with Randall Otto Abshier) (Reference No. 166)

*Col. Robert E. Brady, USA, to be brigadier general (Reference No. 172)

*Vice Adm. Robert F. Dunn, USN, to be placed on the retired list in the grade of vice admiral (Reference No. 173)

*Vice Adm. Edward H. Martin, USN, to be placed on the retired list in the grade of vice admiral (Reference No. 174)

*Vice Adm. Stanley R. Arthur, USN, to be reassigned in the grade of vice admiral (Reference No. 175)

**In the Army Reserve there are 80 promotions to the grade of colonel and below (list begins with Howard M. Bowe) (Reference No. 186)

**In the Army Reserve there are 79 promotions to the grade of colonel and below (list begins with Naman X. Barnes) (Reference No. 187)

**In the Army Reserve there are 79 promotions to the grade of colonel and below (list begins with Charles W. Ackerman) (Reference No. 188)

**In the Army Reserve there are 3,045 promotions to the grade of colonel and below (list begins with Merritt J. Aldrich) (Reference No. 189)

*Rear Admiral (Selectee) John K. Ready, USN, to be vice admiral (Reference No. 192)

**In the Air Force there are 7 promotions to the grade of major (list begins with Linda L. Boyle) (Reference No. 198)

**In the Army there are 190 promotions to the grade of lieutenant colonel and below (list begins with Jose Aguirre) (Reference No. 202)

**In the Naval Reserve there are 462 promotions to the grade of captain (list begins with Bruce Charles Adams) (Reference No. 204)

**In the Air Force there are 19 promotions to the grade of lieutenant colonel (list begins with Elmer D. Ballard) (Reference No. 211)

*Lt. Gen. John L. Ballantyne III, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 213)

**In the Air Force there are 5 promotions and appointments to the grade of lieutenant colonel and below (list begins with Darrell L. Cook) (Reference No. 219)

**In the Army there are 2,402 promotions to the grade of major (list begins with George W. Abbott) (Reference No. 220)

*Maj. Gen. George L. Butler, USAF, to be lieutenant general (Reference No. 244)

*Brig. Gen. Philip G. Killey, ANG, to be major general (Reference No. 245)

*Maj. Gen. Henry Viccellio, Jr., USAF, to be lieutenant general (Reference No. 246)

*Col. Donald W. Sheppard, ANG, to be brigadier general (Reference No. 247)

*Lt. Gen. Edward Honor, U.SA, to be placed on the retired list in the grade of lieutenant general (Reference No. 248)

*Vice Adm. Jonathan T. Howe, USN, to be admiral (Reference No. 249)

*Vice Adm. John A. Baldwin, USN, to be reassigned in the grade of vice admiral (Reference No. 250)

*Maj. Gen. James S. Cassity, Jr., USAF, to be lieutenant general (Reference No. 264)

Total: 8,733.

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

Jack Callihan Parnell, of California, to be Deputy Secretary of Agriculture; and

Richard Thomas Crowder, of Minnesota, to be Under Secretary of Agriculture for International Affairs and Commodity Programs.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to request to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER (for himself, Mr. LAUTENBERG, Mr. BREAUX, Mr. BAUCUS, Mr. CHAFEE, Mr. BURDICK, Mr. MITCHELL, Mr. MOYNIHAN, Mr. WARNER, Mr. GRAHAM, Mr. JEFFORDS and Mr. LIEBERMAN):

S. 816. A bill to control the release of toxic air pollutants to reduce the threat of catastrophic chemical accidents and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRASSLEY (for himself, Mr. INOUYE, Mr. MCCAIN, and Mr. BURDICK):

S. 817. A bill to amend title VII of the Social Security Act to authorize appropriations for the Office of Rural Health Policy and to establish a National Advisory Committee on Rural Health, and for other purposes; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 818. A bill to authorize a study on methods to pay tribute to the late Senator Clinton P. Anderson of New Mexico for his significant contribution to the establishment of a national wilderness system; to the Committee on Energy and Natural Resources.

By Mr. EXON (for himself, Mr. DANFORTH, Mr. KASTEN and Mr. ADAMS):

S. 819. A bill to strengthen the enforcement of motor carrier safety laws, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BOSCHWITZ:

S. 820. A bill to amend section 1503 of title 18, United States Code, relating to protecting officers and jurors from threats or force, to extend protections against threats to jurors after they have been discharged of their duties; to the Committee on the Judiciary.

By Mr. HELMS (for himself, Mr. DECONCINI, Mr. GRASSLEY, Mr. HUMPHREY, Mr. PRESSLER, Mr. THURMOND, and Mr. COATS):

S. 821. A bill to abolish the Commission on Executive, Legislative, and Judicial Salaries, establish a procedure for adjusting pay rates of certain Federal officers, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN:

S. 822. A bill to prohibit the importation into the United States of certain articles originating in Burma; to the Committee on Finance.

By Mr. LEVIN (for himself, Mr. DIXON, Ms. MIKULSI, Mr. MURKOWSKI, and Mr. SIMON):

S. 823. A bill to provide OPIC insurance, reinsurance, and financing to eligible projects in Poland; to the Committee on Foreign Relations.

By Mr. ROTH:

S. 824. A bill to create a Federal initiative for affordable quality child care, and for other purposes; to the Committee on Finance.

By Mr. FOWLER (for himself and Mr. NUNN):

S. 825. A bill to direct the Secretary of the Army to release a reversionary interest in certain land in Clay County, GA; to the Committee on Environment and Public Works.

By Mr. BENTSEN:

S. 826. A bill for the relief of River Publishers, Inc. of Wharton, TX; to the Committee on Governmental Affairs.

By Mr. PELL (by request):

S. 827. A bill to amend the Foreign Assistance Act of 1961 to authorize a multi-year economic assistance program for the Philippines, and for other purposes; to the Committee on Foreign Relations.

By Mr. DOMENICI (for himself, Mr. BOREN, Mr. DOLE, Mr. NICKLES, Mr. WALLOP, Mr. GARN, Mr. BINGAMAN, Mr. JOHNSTON, Mr. MCCLURE, and Mr. GRAMM):

S. 828. A bill to amend the Internal Revenue Code of 1986 to provide incentives for the removal of crude oil and natural gas through enhanced oil recovery techniques so as to add as much as 10 billion barrels to the U.S. reserve base, to extend the production of certain stripper oil and gas wells, and for other purposes; to the Committee on Finance.

By Mr. ROTH:

S. 829. A bill to provide the President with enhanced rescission authority at such time as the debt of the U.S. Government held by the public exceeds $2,378,000,000,000; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977 with instructions that if one committee reports, the other committee has 30 days of continuous session to report or be discharged.

By Mr. PELL (for himself, Mr. CHAFEE, Mr. KENNEDY, and Mr. KERRY):

S. 830. A bill to amend Public Law 99-647, establishing the Blackstone River Valley Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. 831. A bill for the relief of Maria Eduarda Lorenzo; to the Committee on the Judiciary.

By Mr. DOMENICI:

S. 832. A bill to amend title 23, United States Code, to provide funds for skill training; to the Committee on Environment and Public Works.

By Mr. METZENBAUM (for himself and Mr. LIEBERMAN):

S. 833. A bill to amend the Cable Act regarding cable communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. METZENBAUM (for himself, Mr. PRESSLER, and Mr. LIEBERMAN):

S. 834. A bill to amend the Clayton Act regarding cable communications, and for other purposes; to the Committee on the Judiciary.

By Mr. BRADLEY (for himself and Mr. HATCH):

S.J. Res. 103. Joint resolution to designate the period commencing February 18, 1990, and ending February 24, 1990, as "National Visting Nurse Associations Week"; to the Committee on the Judiciary.

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. BOND, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. D'AMATO, Mr. DURENBERGER, Mr. GORTON, Mr. JEFFORDS, Mr. LUGAR, Mr. MCCAIN, Mr. WILSON, Mr. MURKOWSKI, Mr. MCCONNELL, Mr. WARNER, Mr. PACKWOOD, Mr. GRASSLEY, Mr. HATCH, Mr. BUMPERS, Mr. CONRAD, Mr. DECONCINI, Mr. EXON, Mr. FORD, Mr. GORE, Mr. HARKIN, Mr. HOLLINGS, Mr. KOHL, Mr. MATSUNAGA, Mr. NUNN, Mr. PELL, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SHELBY, and Mr. SIMON):

S.J Res. 104. Joint resolution to express the sense of the Congress with respect to the health of the Nation's children; considered and passed.

By Mr. DOLE (for himself, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. LUGAR, Mr. INOUYE, Mr. STEVENS, Mr. HUMPHREY, Mr. COCHRAN, Mr. WILSON, Mr. CONRAD, Mr. SIMPSON, Mr. MURKOWSKI, Mr. HELMS, Mr. HEFLIN, Mr. DURENBERGER, Mr. RIEGLE, Mr. SIMON, Mr. HATCH, Mr. WARNER, Mr. LEAHY, Mr. MCCAIN, Mr. ROBB, Mr. BOND, Mr. SANFORD, Mr. BURNS, Mr. COATS, Mr. GARN, Mr. GRASSLEY, Mr. JEFFORDS, Mr. MCCLURE, and Mr. WALLOP):

S.J. Res. 105. Joint resolution to designate October 7 through October 14, 1989, as "National Week of Outreach to the Rural Disabled"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself, Mr. BYRD, and Mr. DASCHLE):

S. Res. 107. Resolution commending Elizabeth (Beth) Shotwell-Valeo for faithful and outstanding service to the U.S. Senate; considered and agreed to.

By Mr. MITCHELL (for himself, Mr. BOSCHWITZ, Mr. PELL, Mr. DOLE, Mr. HELMS, Mr. CHAFEE, Mr. GRASSLEY, Mr. MACK, Mr. GRAHAM, Mr. HEFLIN, Mr. KERRY, Mr. BREAUX, Mr. SHELBY, Mr. COATS, and Mr. MURKOWSKI):

S. Res. 108. Resolution expressing the sense of the Senate concerning the situation in Lebanon; placed on the calendar.

By Mr. FORD (for himself, Mr. THURMOND, and Mr. SANFORD):

S. Con. Res. 28. Concurrent resolution to commemorate the 50th anniversary of the Airborne units of the United States Armed Forces; considered and agreed to.

By Mr. PRESSLER:

S. Con Res. 29. Concurrent resolution to the closing of recreation facilities at Corps of Engineers civil works projects; to the Committee on the Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER (for himself, Mr. LAUTENBERG, Mr. BREAUX, Mr. BAUCUS, Mr. CHAFEE, Mr. BURDICK, Mr. MITCHELL, Mr. MOYNIHAN, Mr. WARNER, Mr. GRAHAM, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 816. A bill to control the release of toxic air pollutants, to reduce the threat of catastrophic chemical accidents, and for other purposes; to the Committee on Environment and Public Works.

TOXICS RELEASE PREVENTION ACT

Mr. DURENBERGER. Mr. President, I am pleased to join today with 11 of my colleagues from the Committee on Environment and Public Works to introduce legislation to control the release of toxic air pollutants and to prevent the catastrophic chemical accidents which all too often fill the headlines of our newspapers.

This is the first of three bills on air pollution which the committee will be introducing over the next few weeks. It reflects the input of almost every member of the committee and I am particularly grateful for participation of Senator LAUTENBERG and Senator BREAUX in the preparation of this bill. Over the course of 2 years working on this bill, we have also had excellent technical assistance from the staff of the Environmental Protection Agency and from knowledgeable individuals from industry and the environmental community.

Toxic air pollutants are generally cancer-causing substances, but other health and environmental problems may also be caused by toxics. There are hundreds of air toxics of concern. Some examples are mercury, arsenic, asbestos, benzene, radionuclides, trichloroethylene, a solvent; perchlorethylene, dry cleaning fluid; ethylene oxide, hospital sterilant; toluene, a constituent of gasoline; ammonia; ethylene and propolyene, building blocks

in plastics, methyl isoncyanate, the Bhopal chemical and a pesticide feedstock; and dioxin, a product of combustion whenever there is chlorine in the fuel.

OSHA regulates 500 toxics in the workplace. A few States with active programs have regulated a total of 708 different air toxics. Recently major manufacturing facilities were required to report their air toxics emissions. The total for the firms reporting was 2.7 billion pounds per year. That is estimated to be about one-quarter of all emissions.

Under the Clean Air Act, EPA is to regulate these toxics by setting emissions standards limiting the amount of the pollutant that can emitted by any particular source. The standard is to be set at a level which provides an ample margin of safety to protect public health. The law has worked poorly. In 18 years, EPA has regulated only some sources of only seven chemicals. One reason the law has worked poorly is the standard of protection required. "An ample margin of safety" has been interpreted by many to mean zero exposure to carcinogens, because any amount of exposure may cause a cancer. EPA has not been willing to write standards that tough because they would shut down major segments of American industry. The legislation to be proposed and described here will entirely restructure the existing law, so that toxics might be adequately regulated by the Federal Government.

The toxics problem can be divided into three parts: One, everyday, up-the-stack emissions from major sources like chemical plants, oil refineries and computer manufacturers; two, everyday emissions from small but numerous sources like dry cleaners, cars and trucks, gasoline stations, wood stoves, and pesticide applications; and three, accidental and catastrophic releases of extremely hazardous substances that kill or injure immediately.

Mr. President, on April 12 of this year EPA issued its toxic release inventory compiled from reports required by the Emergency Planning and Community Right-to-Know Act of 1986. The EPA data indicated that toxic releases to the air from major manufacturing facilities were approximately 2.7 billion pounds in 1987. The largest amounts of emissions were in Texas, 240 million pounds; Ohio, 173 million pounds; Louisiana, 138 million pounds; Tennessee, 135 million pounds; and Virginia, 132 million pounds.

Chemicals most frequently released included toluene, ammonia, acetone, methanol, carbon disulfide, trichloroethane, methyl ethyl ketone, xylene, dichloromethane, and chlorine. Actual emissions are likely to be two to five times higher, as the reporting requirement only applied to a fraction of the sources which are known to emit toxic pollutants.

In a 1985 study examining the potential cancer-causing effects of exposure to air toxics, EPA estimated a national annual cancer incidence of approximately 2,000 cases as the result of exposure to some 15 to 40 toxic air pollutants. This would mean that 140,000 of the Americans now alive—2,000 annually times 70-year lifespan—might be expected to contract cancer from exposure to air toxics. Again, this estimate may be low as a much larger number of air pollutants have been identified as potentially toxic.

In 1987 the South Coast Air Basin, Southern California pollution control agency, released a study on ambient concentrations of approximately 20 air toxics in the Los Angeles area. Based on that data and extrapolating to the whole Nation, cancer incidence attributable to toxic air pollutants was projected to be as high as 500,000 cases for those Americans now alive.

Another aspect of the air toxics problem is the very high risk of health problems experienced by individuals living near large industrial facilities or in highly developed urban corridors. EPA has examined cancer risks at more than 2,600 industrial facilities across the United States as part of its effort to promulgate air toxics regulations. At more than one-quarter of these facilities, toxic emissions produced cancer risks greater than 1-in-10,000—that is 1 additional cancer for each 10,000 persons exposed—for people living nearest these plants. If these sites were abandoned waste dumps, risks of that magnitude would qualify them for cleanup under the Federal Superfund program.

The 1987 South Coast Air Basin study found cancer risks in the Los Angeles area for the mix of air pollutants from industrial sources, highway fuels, and small business to exceed 1 in 1,000. Based on the actual ambient concentrations recorded as part of the study, cancer deaths in the area were projected at 222 per year.

In addition to the cancer and other adverse health effects caused by exposure to air toxics, these air pollutants also cause widespread environmental degradation. It is estimated that a large percentage of the toxics in the Great Lakes—up to 80 percent of the toxics in Lake Superior—are deposited from the air rather than from surface runoff. Lakes all across the northern tier of States are now posted with warnings for pregnant women and children because of high mercury levels in fish attributable to mercury emissions from coal-fired powerplants.

Beyond these routinely occurring emissions, another aspect of the toxic problem is the sudden and potentially catastrophic chemical accident. In August of 1988 EPA prepared an update of its acute hazardous events data base, which was released on April 8, 1989, covering 11,048 events in the United States involving the accidental release of extremely hazardous substances between 1982 and 1986. These events caused 309 deaths, 11,341 injuries, and the evacuation of 464,677 people from homes and jobs. Evacuation information was only reported for about one-half of the recorded events, so the actual figure may be much higher.

As part of its work on the accident data base, EPA analyzed 29 events with the highest potential for damage to health and the environment. These events were compared to the release at Bhopal, India which killed 3,000 and injured over 200,000. Considering only the toxicity and volume of the chemicals released in the 29 United States events, 17 of these events had the potential for more damage than Bhopal and all 29 had a potential of 50 percent or more of the Bhopal effects. That few were killed or injured in these accidents—650 people were injured in 1 event and 5 killed in another—is due principally to the location of the facilities and climate and operating conditions at the time of the release.

Section 112 of the Clean Air Act adopted in 1970 requires EPA to list each hazardous air pollutant which is likely to cause an increase in death or serious illness. Within a year after listing EPA is to establish emissions standards which would apply to sources of the listed pollutant providing an ample margin of safety to protect public health.

In the 18 years of administering section 112, EPA has listed only eight pollutants: mercury, beryllium, asbestos, vinyl chloride, benzene, radionuclides, inorganic arsenic, and coke oven emissions. No standard has been promulgated for coke oven emissions and for many of the other pollutants only a few of the source categories emitting the substance are actually regulated. There is only one standard for benzene, while sources in several categories contribute significant emissions. Mercury is a listed substance, but mercury emissions from powerplant boilers, exempt from standards, are contributing to high mercury levels in the flesh of fish taken in the Great Lakes region.

While EPA has listed only eight substances from regulation, a handful of States with active air toxics programs developed on their own have set standards for 708 substances. In 1983 and upon his return to EPA, William Ruckelshaus committed to make decisions within 1 year on approximately 25 toxic air pollutants that had been under review since 1977. Subsequently EPA decided that 14 of the substances did not require regulation, that 10

may be listed at some point in the future, and that 1, coke oven emissions, was to be listed.

In 1985 EPA announced a new air toxics strategy shifting the focus from the regulation of hazardous air pollutants under section 112, to actions under other laws and by the States. The 1985 strategy elevated concern for emissions from the small, area sources like automobiles, dry cleaners, small combustion units, and so on. One action announced in the strategy has been completed—a new source performance standard for wood stoves, but few of the other elements proposes have been implemented.

In 1987 the Court of Appeals for the District of Columbia reviewed decisions made by EPA with respect to vinyl chloride emissions. As with actions on other standards, EPA had considered cost in a decision to withdraw vinyl chloride standards that had been proposed during the Carter administration. The court found that cost cannot be considered when establishing a safe level of exposure to toxic air pollutants. It is only in determining the margin of safety that EPA is authorized to consider cost and other factors. Because cost had been considered in several of the other hazardous pollutant standards established by the Agency, 5 of the 7 standards that had been issued will be reconsidered. The first proposed revisions for benzene and radionuclides are due in August 1989.

The legislation is designed to address each of the air toxics problems in turn: major sources; area sources; and catastrophic accidents.

MAJOR SOURCES

The bill establishes a list of pollutants which will be regulated by EPA. The list in the Clean Air bill reported in 1987 included 224 substances. The list was drawn from various other lists, but at a minimum each of the pollutants was already regulated by a State or is among the top 100 pollution threats as identified by the Agency for Toxics Substances and Disease Registry. EPA has reviewed the list we reported in the last Congress and has suggested some additions and deletions. After further consultation with the Agency, we may modify our list as EPA has suggested. The EPA list contains 186 substances.

Any facility which emits more than 10 tons of any one of these listed pollutants or 25 tons of any combination is considered a major source and will be subject to regulation under this section.

EPA will organize major source into categories and subcategories like chemical plants, steel mills, oil refineries, cotton gins, glass manufacturing plants, uranium mines, boilers, industrial dry cleaning, automobile manufacturing, and so on. There will likely be about 90 to 150 categories and subcategories of this type.

EPA will be required to promulgate emission standards for each category or subcategory on a phased schedule provided in the bill which mandates the promulgation of standards for all sources by 10 years from enactment. These initial standards will not be based on the potential health effects of each pollutant as provided in existing law. They will instead reflect the level of control that can be achieved by installing best available control technology. Determining what can be accomplished by available technology is much easier than determining the safe level of exposure to a carcinogen. Sources will have 3 years to comply with standards, once they come into force.

Major sources are allowed an option to control their emissions voluntarily. Any source achieving a 90 percent reduction in its emissions of hazardous air pollutants before December 31, 1992, would be exempt from the BACT standards. This provision trades early reductions for the opportunity to avoid the complexity of long-term standards.

It may be that the technology standards will not eliminate all the health and environmental effects that are of concern. In cases where they don't, EPA will have authority to tighten up the standards to eliminate significant residual risks. For carcinogens, no source will be allowed to expose people living nearest the source to a risk greater than 1 in 10,000, (1 additional cancer for each 10,000 persons exposed). And if it is possible, the technology is available, sources will have to reduce emissions to a level presenting no more than a 1- in 1-million risk, a traditional safety threshold. Sources not able to meet the 1 in 10,000 standard will have to shutdown. Sources not able to meet the 1 in 1-million standard will be given more time.

Each source subject to these standards will be required to apply for a permit. The permit and enforcement aspects of the program will be managed by the States.

AREA SOURCES

Again area sources are the small, but possibly numerous sources, of toxic pollutants. Although the risks from each source are small, EPA believes that in the aggregate they may cause as much as 75 percent of the cancers in some urban areas.

This part of the bill works off the same list of 224 substances. The Administrator can also list an area source category just as he would a major source category and require installation of best available control technology.

But for some sources this standard may be too costly, in which case the Administrator would likely not list the source category and no control would result. So the bill establishes an alternative area source control program that asks the Administrator to prepare a national urban air toxics strategy to reduce the risks from area sources. As part of this strategy, major metropolitan areas would be required to monitor for a broad range of pollutants. And the Administrator would be authorized to promulgate standards that would apply to small sources, nationally.

EPA would report on the reductions achieved at 8- and 10-year intervals.

ACCIDENT PREVENTION

The purpose of this section of the bill is to prevent chemical accidents like that which occurred at Bhopal and require preparation to mitigate the effects of those accidents that do occur.

Each owner or operator of a facility handling an extremely hazardous substance would have a general duty to operate a safe facility meaning that EPA, on inspection, could require modifications in equipment or operational processes, that are unsafe.

The Administrator is to establish a second list of pollutants—those extremely hazardous substances that when released in a sudden event can cause death or serious injury. This list is to include not less than 50 substances which have the greatest potential to cause death, injury, or evacuation in the event of an accidental release.

Facilities which handle large amounts of these extremely hazardous substances would be required to prepare hazard assessments—an engineering analysis to determine what kinds of accidents might occur and how the surrounding community would be affected, if an accident did occur.

The bill establishes a Chemical Safety Board, like the National Transportation Safety Board, to investigate chemical accidents to determine their causes. The Board would have five members, a chairman confirmed by the Senate, two members appointed by EPA, one by OSHA and one by DOT.

The Safety Board may make recommendations to EPA on regulations that would prevent or mitigate accidents and EPA has authority to issue such regulations. The President would conduct a review of the accident prevention authorities of the Federal Government and report to the Congress.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 816

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This act may be cited as the "Toxics Release Prevention Act of 1989".

SEC. 2. Section 112 of the Clean Air Act is amended to read as follows:

"HAZARDOUS AIR POLLUTANTS

"SEC. 112. (a) DEFINITIONS—

"(1) The term 'major source' means any stationary source (including all emission points and units of such source located within a contiguous area and under common control) of air pollutants that emits considering installed and operating controls, in the aggregate, ten metric tons per year or more of any hazardous air pollutant or twenty-five metric tons per year or more of any combination of hazardous air pollutants. The Administrator may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source than that specified in the previous sentence, on the basis of the potency of the air pollutant, other characteristics of the air pollutant, or other relevant factors.

"(2) The term 'area source' means any stationary or mobile source of hazardous air pollutants that is not a major source.

"(3) The term 'stationary source' means any facility or installation or unit of such facility or installation which emits or may emit any hazardous air pollutant.

"(4) The term 'new source' means a source the construction of which is commenced after the Administrator first proposes regulations under this section establishing emissions standards applicable to such source.

"(5) The term 'hazardous air pollutant' means any air pollutant listed pursuant to subsection (b).

"(6) For purposes of this section, the term 'adverse environmental effects' means any threat of significant adverse effects, which may reasonably be anticipated, to wildlife, aquatic life or other natural resources including disruption of local ecosystems, impacts on populations of endangered or threatened species, significant degradation of environmental quality over broad areas, or other comparable effects.

"(7) The terms 'owner or operator' and 'existing source' shall have the same meaning as such terms have under section 111(a).

"(b) List of Pollutants.—

"(1) Not later than three months after the date of enactment of the Toxics Release Prevention Act of 1989, the Administrator shall publish a list of air pollutants to which the provisions of this section shall apply and which shall include each of the air pollutants on the list of the air pollutants contained in Committee Print 101-XX published by the Committee on Environment and Public Works of the United States and entitled "Air Pollutants Subject to Section 112 of the Clean Air Act."

"(2) The Administrator shall, from time to time, but not less often than every five years, review and revise the list established by paragraph (1) adding pollutants which present, or may present, a threat of adverse human health effects (including, but not limited to, substances which are known to be, or may reasonably be anticipated to be, carcinogenic, mutagenic, teratogenic, neurotoxic, which cause reproductive dysfunction, or which are acutely or chronically toxic but not including effects for which a pollutant has been listed pursuant to section 108 of this Act) or adverse environmental effects whether through ambient concentrations, bioaccumulation, deposition, or otherwise, but not including releases subject to regulation under section 129 as a result of emissions to the air. No substance, practice, process or activity regulated under part B of this Act shall be subject to regulation under this section solely due to its adverse effects on the environment.

"(3)(A) Any person may petition the Administrator to modify the list established by paragraph (1) by adding or deleting a substance. Within twelve months after receipt of a petition the Administrator shall either grant the petition or publish a statement of the reasons for not granting the petition. The Administrator may not deny a petition on the basis of inadequate resources or time for review.

"(B) The Administrator shall add a substance to the list upon a showing by the petitioner or on the Administrator's own determination that the substance is an air pollutant and that emissions or ambient concentrations of the substance are known to cause or may reasonably be anticipated to cause adverse effects to human health or adverse environmental effects, or that the substance is an air pollutant that qualifies for addition to the list established under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986.

"(C) The Administrator shall remove a substance from the list upon a showing by the petitioner or on the Administrator's own determination that there is adequate data on the health and environmental effects of the substance to determine that emissions or ambient concentrations of the substance may not reasonably be anticipated to cause any adverse effects to the human health or adverse environmental effects, or that the substance qualifies for deletion from the list established under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986. Action by the Administrator pursuant to section 313(d)(3) of such Act prior to the date of enactment of this paragraph shall constitute a deletion for the purposes of this section.

"(4) If the Administrator determines that information on the health or environmental effects of a substance is not sufficient to make a determination required by this subsection, the Administrator may use the authorities of section 104(i) of the Comprehensive Environmental Response, Compensation and Liability Act and other information-gathering authorities under such Act and other laws administered by the Agency to acquire such information.

"(5) The Administrator may establish test measures and other analytic procedures for monitoring and measuring emissions and ambient concentrations of hazardous air pollutants.

"(c) List of Source Categories.—

"(1) Not later than twelve months after the date of enactment of the Toxics Release Prevention Act of 1989 and after notice and opportunity for public comment, the Administrator shall publish (and from time to time revise) a list including all categories and subcategories of major sources of hazardous air pollutants which shall, to the extent practicable, be consistent with the list of source categories established pursuant to section 111 and part C of this Act.

"(2) The Administrator shall list under this subsection and designate for regulation under subsection (d) each category or subcategory of area sources which the Administrator finds presents a threat of adverse effects to human health or the environment (by such sources individually or in the aggregate) warranting regulation under this section.

"(3) In addition to those categories and subcategories of sources designated for regulation pursuant to paragraphs (1) and (2), the Administrator may at any time designate additional categories and subcategories of sources of hazardous air pollutants according to the same criteria for designation applicable under such paragraphs and at the time of designation shall establish a date for the promulgation of emissions standards under subsection (d).

"(4) At the time of setting a standard for any category or subcategory of sources pursuant to subsections (d), (f), or (g), the Administrator shall also establish a minimum emissions rate for each hazardous air pollutant emitted by sources in the category or subcategory reflecting the criteria for listing a hazardous air pollutant established by subsection (b)(2). All sources in the category or subcategory emitting more than the minimum emissions rate for any hazardous air pollutant shall be subject to standards promulgated under subsection (d), (f) or (g). In no event shall the minimum emissions rate be greater than ten metric tons per year for any one hazardous air pollutant or twenty-five metric tons per year for any combination of such pollutants.

"(5) Notwithstanding the provisions of paragraph (4), the Administrator may establish a minimum emissions rate of more than ten metric tons for a category or subcategory and a pollutant for which a health effects threshold can be established, provided that, the minimum emissions rate assures, with an ample margin of safety, such threshold will not be exceeded within the vicinity of the sources in the category and that no adverse environmental effects will occur as the result of emissions from the sources individually or in combination with emissions from other similar sources.

"(d) EMISSIONS STANDARDS.—

"(1) The Administrator shall promulgate emissions standards for every category or subcategory of sources of hazardous air pollutants designated for regulation pursuant to subsection (c).

"(2) Emissions standards promulgated under this subsection and applicable to new or existing sources of hazardous air pollutants shall require the maximum degree of reduction in emissions of each air pollutant subject to this section (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration the cost of achieving such emissions reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emissions standard applies, through application of measures, processes, methods, systems or techniques including, but not limited to, measures which—

"(A) reduce the volume of such pollutants through process changes, substitution of materials or other modifications,

"(B) enclose systems or processes to eliminate emissions,

"(C) collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point,

"(D) are design, equipment, work practice, or operational standards, or

"(E) are a combination of the above.

"(3) The degree of reduction in emissions that is deemed achievable for new sources in a category or subcategory shall not be less stringent than the most stringent emissions level that is achieved in practice by a source in the same category or subcategory, as determined by the Administrator, and may be more stringent where feasible. Emissions

standards under this subsection for existing sources in a category or subcategory may be less stringent than standards for new sources in a similar category or subcategory, if the Administrator determines that the level of control applicable to new sources is generally technically or economically infeasible for existing sources in the category or subcategory and, considering, sequentially, the level of control achieved by existing sources in the category or subcategory beginning with the most stringent such level, establishes an emissions limitation which is generally feasible and assures the maximum total reduction in emissions from all sources in the category or subcategory. The Congress finds that a reduction of 90 per centum from uncontrolled levels is an appropriate benchmark for emissions standards applicable to existing sources under this subsection.

"(4) With respect to pollutants for which a health threshold can be established, the Administrator may consider such threshold level, with an ample margin of safety, when establishing emissions standards under this subsection.

"(5) With respect only to categories and subcategories of area sources listed pursuant to subsection (c)(2), the Administrator is authorized, in addition to the authorities provided in paragraph (2) and subsections (f) and (g), to promulgate standards or requirements applicable to sources in such categories or subcategories which provide for the use of cost effective and generally available control technologies or management practices by such sources to reduce emissions of hazardous air pollutants.

"(6) The Administrator shall review, and revise as necessary (taking into account developments in practices, processes and control technologies), emissions standards promulgated under this section no less often than every seven years.

"(7) No emissions standard or other requirement promulgated under this section shall be interpreted, construed or applied to diminish or replace the requirements of a more stringent emission limitation or other applicable requirement established pursuant to section 111, part C, section 172(b) (3) or (6), or other authority of this Act or a standard issued under State authority.

"(8) Emissions standards promulgated under this subsection shall be effective upon promulgation.

"(e) Schedule for Standards and Review.—

"(1) The Administrator shall promulgate regulations establishing emissions standards for categories and subcategories of sources designated for regulation pursuant to subsection (c) as expeditiously as practicable, assuring that—

"(A) emissions standards for categories or subcategories of sources of acrylonitrile, benzene, butadiene, cadmium, carbon tetrachloride, chloroform, ethylene dichloride, ethylene oxide, methylene chloride, perchloroethylene, trichloroethylene and coke over emissions are promulgated not later than twenty-four months after the date of enactment of this subsection;

"(B) emissions standards for 25 per centum of the categories and subcategories designated pursuant to subsection (c)(1) and (c)(2) shall be promulgated not later than three years after such date;

"(C) emissions standards for 50 per centum of the categories or subcategories designated pursuant to subsection (c)(1) and (2) shall be promulgated not later than five years after such date; and

"(D) emissions standards for all categories and subcategories designated for regulation pursuant to subsection (c)(1) and (2) shall be promulgated not later than ten years after such date.

"(2) In determining priorities for scheduling the promulgation of standards pursuant to subparagraphs (1)(B), (C) and (D), the Administrator shall consider—

"(A) the known or anticipated adverse effects of such pollutants on human health and the environment;

"(B) exposure to and the location of major sources of such pollutants including risks to individuals most exposed and the consequent urgency of a national standard;

"(C) the quantity of hazardous air pollutants that sources in each category or subcategory emit; and

"(D) the efficiency of grouping the categories or subcategories according to the pollutants emitted or the processes or technologies used.

"(3) Not later than twenty-four months after the date of enactment of this subsection and after opportunity for comment, the Administrator shall publish a schedule establishing a date for the promulgation of emissions standards for each category and subcategory of sources listed pursuant to subsection (c)(1) and 2) which shall be consistent with the requirements of paragraphs (1) and (2). The determination of priorities for the promulgation of standards pursuant to this paragraph is not a rule-making and shall not be subject to judicial review, except that, failure to promulgate any standard pursuant to the schedule established by this paragraph shall be subject to review under section 307 of this Act.

"(4) If, under other provisions of this Act, the Administrator is proposing or promulgating requirements applicable to a class of sources similar to a category or subcategory listed pursuant to this section, the Administrator may simultaneously propose or promulgate emissions standards under this section for such category or subcategory notwithstanding the priorities established by paragraph (2). Nothing in this paragraph shall be construed applied to stay a deadline for control requirements otherwise applicable under this or other law.

"(5)(A) Not later than three years after the initial promulgation of emissions standards for a category or subcategory of sources pursuant to subsection (d), the Administrator shall commerce an evaluation of the risks to human health and the environment resulting from emissions of hazardous air pollutants by sources in the category or subcategory remaining after application of such standards. If the Administrator finds as the result such evaluation, that emissions of hazardous air pollutants from sources in the category or subcategory (or portion thereof), individually or in the aggregate, after application of the prescribed standards, present a significant risk of adverse effects on public health or a threat of adverse environmental effects, the Administrator shall complete, within two years after the date of commencement, such evaluation and revise standards applicable to such category or subcategory (or portion thereof) using the authorities of subsections (f) or (g), as appropriate.

"(B) The Administrator shall take such steps as are necessary, including studies pursuant to section 104(i) of the Comprehensive Environmental Response, Compensation and Liability Act, to assure that adequate data on the health and environmental effects of any hazardous air pollutant emitted by sources in a category or subcategory subject to review under this paragraph are available at the commencement of the evaluation.

"(C) To the extent that standards promulgated under subsection (d) do not eliminate lifetime risks of carcinogenic effects greater than one in one million to the individual in the population who is most exposed to emissions of a pollutant (or stream of pollutants) from a source in the category or subcategory (as determined according to Guidelines for Carcinogenic Risk assessment published by the Administrator), the Administrator shall use the authorities of subsection (f) to revise the standards applicable to such pollutant (or stream of pollutants) and categories or subcategories. To the extent that standards promulgated under subsection (d) do not reduce emissions to a level at or below the threshold for adverse health effects, with an adequate margin of safety, for pollutants other than carcinogens, the Administrator shall use the authorities of subsection (g) to revise the standards applicable to such pollutants and categories or subcategories. With respect to any hazardous air pollutant which is both a carcinogen and causes adverse health effects for which a threshold exists, the Administrator shall establish standards pursuant to subsection (f) for sources of such pollutant, unless a more stringent standard than would be promulgated pursuant to subsection (f)(1)(A) is necessary to assure that such threshold, with an ample margin of safety, will not be exceeded. The Administrator shall in any such case establish a standard under subsection (g) in lieu of the standard which would be applicable under (f)(1)(A).

"(f) Additional Regulation of Carcinogens.—

"(1) The Administrator is authorized to promulgate emissions standards under this subsection applicable to categories or subcategories of sources of any hazardous air pollutant which is a known, probable or possible human carcinogen. For each such pollutant (or stream of pollutants containing carcinogens) the Administrator shall establish two simultaneously applicable standards including—

"(A) a standard which eliminates all lifetime risks of carcinogenic effects greater than one in ten thousand to the individual in the population who is most exposed to emissions of a pollutant (or stream of pollutants) from a source in the category or subcategory; and

"(B) a standard which eliminates all lifetime risks of carcinogenic effects greater than one in one million to the individual in the population who is most exposed to emissions of a pollutant (or stream of pollutants) from a source in the category or subcategory.

No consideration of cost, cost effectiveness, economic, energy or other factors or technological feasibility shall be included in the determination of the appropriate level of any emissions standard under this subsection.

"(2) Any standards promulgated under this subsection shall be effective upon the date of promulgation.

"(g) Standards to Protect Health and Environment.—

"(1) The Administrator is authorized to promulgate emissions standards under this subsection applicable to categories or subcategories of sources of any hazardous air pollutant which is not a carcinogen. The Administrator shall establish any emission standard or standards under this subsection at the level which, in the judgment of the

Administrator, provides an ample margin of safety to protect the public health, unless a more stringent standard is required to protect the environment. No consideration of costs, cost effectiveness, economic, energy or other factors or technological feasibility shall be included in the determination of the appropirate level of any emission standard or the margin of safety to protect the public health under this subsection.

"(2) Any emission standard established pursuant to this subsection shall become effective upon promulgation.

"(h) Work Practice Standards and Other Requirements.—

"(1)(A) In addition to any numerical emissions limitation established under this section, the Administrator is authorized to promulgate a design, equipment, work practice, or operational standard, or combination thereof, applicable to sources in categories or subcategories listed pursuant to subsection (c) and consistent with the provisions of subsection (d), (f), or (g). The Administrator shall promulgate such standards whenever it is not feasible to prescribe or enforce an emissions standard for a category or subcategory for control of hazardous air pollutants (or a stream of such pollutants). In the event the Administrator promulgates a design or equipment standard under this paragraph, the Administrator shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

"(B) for the purpose of this paragraph, the phrase "not feasible to prescribe or enforce an emission standard" means any situation in which the Administrator determines that (i) a pollutant (or stream of pollutants) listed pursuant to subsection (b) cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State or local law, or (ii) the application of measurement methodology to a particular category or subcategory of sources is not practicable due to technological and economic limitations.

"(C) If after notice and opportunity for public hearing, any person establishes to the satisfaction of the Administrator that an alternative means of emission limitation will achieve a reduction in emissions of any air pollutant (or stream of pollutants) at least equivalent to the reduction in emissions of such pollutant achieved under the requirements of subparagraph (A), the Administrator shall permit the use of such alternative by the source for purposes of compliance with this section with respect to such pollutant.

"(D) Any standard promulgated under subsections (d), (f) or (g) shall include a numerical emissions limitation whenever it is feasible to promulgate and enforce a standard in such terms.

"(2) For the purposes of developing or assisting in the development of any standard, requirement or regulation, conducting any study, or enforcing the provisions of this section, the Administrator (or a State with an approved program under subsection (1)) may require the owner or operator of any facility which emits air pollutants subject to this section or stores any substance subject to section 129 of this Act to monitor for the presence of such pollutant in the emissions (both point and nonpoint) from such source and in the ambient air within the vicinity of the facility, to install and maintain leak detection systems, and to keep records and make reports on the results of such monitoring and leak detection.

"(3)(A) Emissions standards promulgated pursuant to this section shall include, where appropriate, leak prevention, detection and correction requirements consistent with the provisions of subsection (d)(2) and may include monitoring, record-keeping, reporting, vapor recovery, secondary containment, or other requirements, which shall be applicable to devices and systems (including pumps, compressors, valves, flanges, connectors, containers, and vessels) from which there may be emissions of any pollutant subject to this section.

"(B) Regulations under this paragraph may require the owner or operator of a source to carry out an annual audit and safety inspection to locate and correct all leaks and other preventable routine or episodic releases of any air pollutant subject to this section. The results of such inspection and the results of any other safety inspection, survey or audit carried out with respect to the source shall be available to the Administrator, to the State in which the source is located, and to the public, consistent with the provisions of sections 322, 323, and 324 of the Emergency Planning and Community Right-to-Know Act of 1986.

"(4) Any design, equipment, work practice, or operational standard, audit or monitoring requirement or any combination thereof, described in this subsection shall be treated as an emission standard for purposes of the provisions of this Act (other than the provisions of this subsection).

"(i) Schedule for Compliance.—

"(1) After the effective date of any emissions standard under this section, no air pollutant may be emitted from any source in violation of an emissions standard under this section, except in the case of an existing source, the Administrator shall establish a compliance date or dates for each category or subcategory of existing sources, which shall provide for compliance as expeditiously as practicable, but in no event later than three years after the effective date of such standard, except as provided in paragraphs (2) through (7).

"(2) With respect to standards established pursuant to subsection (f)(1)(A), the Administrator (or a State acting pursuant to a program approved under subsection (1)) may grant an extension permitting an existing source a period of up to five additional years to comply with such standard, if the Administrator (or the State) determines, based on specific information submitted by the owner or operator of the source and other available information, that—

"(A) the owner or operator would experience extraordinary economic hardship in compliance with such standard and requires that such source or category of sources comply with the emissions limitation promulgated pursuant to subsection (d); and

"(B) during the period of the extension emissions limitations applicable to the source shall assure that the health of persons will be protected from any imminent and substantial endangerment.

Compliance with standards promulgated pursuant to subsection (f)(1)(A) shall not be stayed during the pendency of any judicial proceeding to review a determination made under this paragraph.

"(3)(A) With respect to standards promulgated pursuant to subsection (f)(1)(B) the Administrator (or a State acting pursuant to a program approved under subsection (1)) may grant an existing source a temporary exception from the standard, if the Administrator (or the State) determines, based on specific information provided by the owner or operator of the source and other information, that the standard cannot be achieved by the source using all available technology and operational controls and that the source will implement a risk reduction program employing all such technology and controls. For purposes of this subparagraph the phrase "all available technology and operational controls" shall include all measures which are technically feasible including process modifications and materials substitution to reduce emissions of hazardous air pollutants from the source. The Administrator (or the State) may require the owner or operator of the source to conduct research and development on improved or more effective control technologies or management practices as a condition for any temporary exception or permit renewal pursuant to this paragraph.

"(B) Any request for an exception under this paragraph shall be submitted within six months of the date of promulgation of the applicable standard and shall include all information necessary for the Administrator (or the State) to make a determination with respect to the eligibility of a source for an exception. The Administrator (or the State) shall review and approve or disapprove any request within one year of submittal. Any request failing to meet the requirements of this subparagraph shall be deemed denied.

"(C) An exception may only be granted under this paragraph, if the Administrator (or the State) has provided notice of the proposed exception and has provided an opportunity for public comment and a public hearing on the conditions of the proposed exception. The Administrator may review, on appeal by any person or on the Administrator's own motion, and reverse any exception granted by a State under this paragraph. The Administrator shall make a determination with respect to any appeal within one hundred and eighty days.

"(D) An exception granted under this section shall be reviewed upon renewal of the permit for the source, and may be extended after a further determination subject to the same terms and conditions as applicable in the first instance.

"(4) The President may exempt any source from compliance with paragraph (1) for a period of not more than two years if the President finds that the technology to implement such standards is not available and the operation of such source is required for reasons of national security. An exemption under this paragraph may be extended for one or more additional periods, each period not to exceed two years. The President shall make a report to Congress with respect to each exemption (or extension thereof) made under this paragraph.

"(5)(A) The Administrator may exempt any existing source from an emissions standard promulgated pursuant to subsection (d) upon a showing by the owner or operator of such source that it has achieved a voluntary reduction of 90 per centum or more in emissions of hazardous air pollutants from the source on or before December 31, 1992.

"(B) The reduction shall be determined with respect to verifiable and actual emissions in a base year not earlier than calendar year 1985, provided that, there is no evidence that emissions in the base year are artifically or substantially greater than emissions in other years prior to implementation of emissions reduction measures.

"(C) For each source granted an exemption under this paragraph there shall be established by a permit issued pursuant to subsection (j) an enforceable emissions limitation for hazardous air pollutants reflecting the reduction which qualifies the source for an exemption under this paragraph. An exemption under this paragraph shall not include an exemption from standards or requirements promulgated pursuant to subsections (f) or (g) and the Administrator shall review emissions from sources granted exemptions under this paragraph according to the provisions of subsection (e)(5) at the same time that other sources in the category or subcategory are reviewed.

"(D) For purposes of this paragraph, the term "voluntary" means not otherwise required by a Federal, State or local air pollution control law or regulation.

"(E) The Administrator shall promulgate regulations to carry out the provisions of this paragraph as expeditiously as practicable, but not later than twelve months after the date of enactment of the Toxics Release Prevention Act of 1989. Such regulations may include fees sufficient to offset the costs of reviewing applications for exemptions submitted under this paragraph. Revenues from such fees received by the Administrator shall, notwithstanding the provisions of the Miscellaneous Receipts Act, be used for the purpose of administering this section.

"(F) With respect to pollutants for which high risks of adverse human health effects may be associated with exposure to small quantities including, but not limited to, chlorinated dioxins and furans, the Administrator shall by regulation limit the use of off-setting reductions in emissions of other hazardous air pollutants from the source as counting toward the 90 per cent reduction in such high risk pollutants qualifying for an exemption under this paragraph.

"(6) Notwithstanding the requirements of this section, no existing source that has installed—

"(A) reasonably available control technology,

"(B) best available control technology (as defined in section 169(3)),

"(C) technology required to meet a lowest achievable emissions rate, or

"(D) or has voluntarily achieved (as certified to the Administrator) on or after January 1, 1993 a reduction of 90 per centum in the emissions of the hazardous air pollutants emitted by the source,

prior to the promulgation of a standard under this section applicable to such source and the same pollutant (or stream of pollutants) controlled pursuant to an action described in subparagraph (A), (B), (C) or (D) shall be required to comply with such standard under this section until the date five years after the date on which such installation or reduction has been achieved, as determined by the Administrator. The Administrator may issue such rules and guidance as are necessary to implement this paragraph.

"(7)(A) If at any source a hazardous air pollutant is subject to regulation under this section because the source emits more than the minimum emissions rate of other pollutants, the Administrator (or a State acting pursuant to a program approved under subsection (1)) may, at the request of the owner or operator of the source, waive the requirements applicable to such pollutant where emissions of the pollutant are in de minimis amounts and do not present a significant risk of adverse effects to human health or adverse environmental effects and control of the pollutant would require installation of additional and separate control technologies for that pollutant only.

"(B) Applications for waivers under this section shall be submitted not later than four months after the effective date of the relevant standard and the Administrator (or the State) shall make a determination on any application within six months of submission. Applications which are not complete shall be deemed denied without further opportunity for reapplication. An application for a waiver under this paragraph shall not stay the applicant's obligation to comply with emissions standards applicable to other pollutants. Applications shall be accompanied by fees adequate to offset all direct and indirect costs of reviewing such applications. Not later than eighteen months after the date of enactment of this paragraph, the Administrator shall publish guidance on procedures for application and review.

"(j) Permit Program.—

"(1) Except as provided in paragraph (2) and after the date of enactment of this section, it shall be unlawful for any person to construct a new source, or for the owner or operator of any source to emit any air pollutant, subject to any emissions standard under this section, except in compliance with a permit issued by the Administrator (or a State acting pursuant to a program approved under subsection (1)) under this subsection. The Administrator shall promulgate within twelve months after the date of enactment of this subsection regulations establishing the minimum elements of a permit program. These elements shall include—

"(A) requirements for permit applications, including a standard application form and fees sufficient to offset the direct and indirect cost of processing applications;

"(B) monitoring and reporting requirements;

"(C) a requirement that permittees pay an annual fee sufficient to offset all direct and indirect costs of administering the program (if such fees are paid to the Administrator, the Administrator may, notwithstanding any requirement of the Miscellaneous Receipts Act, expend such receipts for the purposes of administering the provisions of this section); and

"(D) a requirement that any State seeking approval of a program pursuant to subsection (1) have adequate personnel and funding to administer the program and adequate authority to—

"(i) issue permits that apply, and assure compliance by all sources within the State with, each applicable standard, regulation or requirement under this section;

"(ii) issue permits for a fixed term, not to exceed five years;

"(iii) terminate or modify permits for cause, including establishment of a new emissions standard applicable to the source;

"(iv) enforce permits and the requirement to obtain a permit, including adequate civil and criminal penalties;

"(v) provide public notice of each application for a permit and an opportunity for public hearing before a determination on each such application; and

"(vi) ensure that no permit will be issued if the Administrator timely objects to its issuance.

No fee schedule established by the Administrator under this subsection shall be designed with the purpose of supporting other aspects of any State air pollution control program including elements for control of area sources or prevention of accidents. Nothing in this subsection shall prevent a State from imposing additional permit fees, except that, the Administrator shall not approve any program pursuant to subsection (1), if revenues from such fees are used for purposes other than the development and implementation of programs to control the emissions of hazardous air pollutants. When issuing permits in the absence of an approved State program, the Administrator shall comply with the guidelines issued to implement this paragraph.

"(2)(A) Notwithstanding the requirements of paragraph (1), a source in a category or subcategory subject to an emissions standard under this section may commence (in the case of a new source) or continue (in the case of an existing source) operations prior to the issuance of a permit, provided that, the owner or operator of the source certifies to the Administrator (or to the State) that the source will comply with all applicable standards and requirements under this section. Certification pursuant to this paragraph shall be provided for new sources before operations commence and for existing sources six months after the effective date of any applicable standard or revision of a standard under this section. The certification shall be accompanied by a compliance plan describing means by which the source intends to achieve the standard on and after the compliance date established by subsection (i) and shall be signed by a responsible official of the business concern owning or operating the source.

"(B) Upon receipt of any certification, the Administrator (or the State) shall issue a temporary operating permit for the source, unless within 30 days the Administrator (or the State) notifies the owner or operator of the source that the certification does not adequately demonstrate compliance with all applicable standards and requirements under this section. Any temporary permit issued under this paragraph shall be enforceable to the same extent as any standard or other requirement promulgated under this section.

"(C) Within six months of the issuance of any temporary operating permit for any source under this paragraph, the Administrator (or the State) shall commence a review of the operations of such source, including an inspection at the site of the source, to determine whether a full operating permit under this subsection should be issued. If upon conclusion of such review (including any right to administrative appeal, but not including pendency of any judicial proceeding), the Administrator (or the State) determines that a permit should not be issued, the temporary permit granted under this paragraph shall be suspended immediately.

"(D) The owner or operator of each source receiving a temporary permit under this subsection shall recertify annually as to its compliance with all standards or requirements applicable to such source under this section. The Administrator may require emissions monitoring and reporting as a condition of recertification. The Administrator shall require that certifications (including any annual recertifications) under this paragraph be accompanied by a fee sufficient to offset the full administrative costs of reviewing certifications.

"(3)(A) In the event that the Administrator fails to promulgate a standard for a category or subcategory of sources by the date established pursuant to subsection (e)(1)(A)

or (3), and beginning six months after such date, it shall be unlawful for the owner or operator of any source in such category or subcategory to emit any hazardous air pollutant except in compliance with a permit issued by the Administrator (or a State acting pursuant to a program approved under subsection (1)) under this paragraph.

"(B) The permit shall be issued pursuant to the provisions of paragraph (1) and such other provisions as are necessary to carry out the objectives of this Act. In preparing applications for permits under this paragraph, the owner or operator of the source shall commit to the installation and operation of technology and practices to control emissions of hazardous air pollutants which are the best technology and practices available for such source, as certified by an independent, registered professional engineer.

"(C) Each permit issued under this paragraph shall include an enforceable emission limitation for each hazardous air pollutant emitted by the source and no such pollutant may be emitted in amounts exceeding the applicable limitation immediately for new sources and, as expeditiously as practicable, but not later than the date three years after the permit is issued for existing sources.

"(D) If the administrator subsequently promulgates a standard which would be applicable in lieu of the emissions limitations established by permit under this section, the administrator (or the State) shall revise such permit upon the next renewal to relect the standards promulgated by the Administrator.

"'(E) Paragraph (2) shall not be available to any source requiring a permit under this paragraph.

"(4) The Administrator shall suspend the issuance of permits by the Agency in any State promptly upon approval of a program for that State under subsection (1).

"(5)(A) Each State shall transmit to the Administrator a copy of each permit application (but not including certifications for temporary permits) and including any application for an extension or modification submitted under this section, and shall provide for notice of each permit proposed to be issued by the State.

"(B) No permit shall issue if the administrator within sixty days objects in writing to its issuance as not in compliance with the requirements of this section. The Administrator shall provide with the objection a statement of the reasons for the objection and the terms and conditions that the Administrator would impose if the permit were issued by the Administrator.

"(C) If the State fails within 90 days after the date of the objection to submit a permit revised to meet the objection, the Administrator shall have authority to issue or deny the permit.

"(D) Nothing in this paragraph shall be interpreted, construed or applied to require the Administrator to review each permit to be issued by a State, provided that the Administrator conducts an audit program which assures that State permitting activities are consistent with the goals and objectives of this section.

"(6) To the maximum extent practicable, permits issued under this section shall be consolidated with other permits required under this Act.

"(k) AREA SOURCE PROGRAM.—

"(1) The Congress finds that emissions of hazardous air pollutants from area sources may individually, or in the aggregate, present significant risks to public health in urban areas. It is the purpose of this subsection to achieve a substantial reduction in emissions of hazardous air pollutants from area sources and an equivalent reduction in the public health risks associated with such sources. Considering the large number of persons exposed and the risks of carcinogenic and other adverse health effects from hazardous air polutants, ambient concentrations characteristic of large urban areas should be reduced to levels substantially below those currently experienced.

"(2) The Administrator shall, after consultation with State and local air pollution control officials, conduct a program of reseach with respect to sources of urban pollution and shall include within such program—

"(A) ambient monitoring for a broad range of hazardous air pollutants (including, but not limited to, volatile organic compounds, metals, pesticides and products of incomplete combustion) in a representative nubmer of urban locations;

"(B) analysis to characterize the sources of such pollution with a focus on area sources and the contribution that such sources make to public health risks from hazardous air pollutants; and

"(C) consideration of atmospheric transformation and other factors which can elevate public health risks from such pollutants.

Health effects considered under this program shall include, but not be limited to, carcinogenicity, mutagenicity, teratogenicity, neurotoxicity, reproductive dysfunction and other acute and chronic effects including, but not limited to, the role of such pollutants as precursors of ozone or acid aerosol formation. The Administrator shall report the preliminary results of such research not later than three years after the date of enactment of this paragraph.

"(3) The Governor of each State receiving a grant under section 105 of this Act and containing a Metropolitan Statistical Area, with a population exceeding 250,000 persons shall commence, not later than 18 months after the date of enactment of this subsection, a monitoring program in each such area to detect and measure the ambient concentration of hazardous pollutants in the air. The Administrator shall, after consultation with the States, prescribe a list of hazardous air pollutants and detection methods (including frequency and location) for purposes of this paragraph which shall reflect those pollutants likely to be emitted by area sources in metropolitan areas and which present the greatest risk to public health. To the extent practicable, monitoring under this paragraph shall be conducted at various times of the day and seasonally and at a variety of locations within each metropolitan area. The Governor shall prepare a biennial report on the results of the monitoring program which shall be made available to the public at a hearing within the metropolitan area and which shall be transmitted to the Administrator. The report shall identify sources or categories of sources contributing to the presence of hazardous pollutants in the air and shall quantify the risks to public health. The Administrator may promulgate such regulations as are necessary to carry out this paragraph, including provisions which—

"(A) phase in the monitoring program over a longer period, but not to exceed 3 years;

"(B) provide for a reduction in the frequency of monitoring in areas which have detected low ambient concentrations or health risks in previous monitoring cycles; and

"(C) which extend the monitoring program to other areas.

"(4) Taking into account the information developed through the monitoring programs authorized by paragraphs (2) and (3), the Administrator shall, not later than five years after the date of enactment of this subsection and after notice and opportunity for public comment, prepare and transmit to the Congress a comprehensive strategy to control hazardous air pollutants released by area sources in urban areas. The strategy shall include a schedule of specific actions to substantially reduce the public health risks posed by the release of hazardous air pollutants from area sources which will be implemented by the Administrator under the authority of this or other laws or by the States. The strategy shall identify particular pollutants and area source categories or subcategories which present public health threats, those specific actions to reduce emissions which will be taken with respect to the identified pollutants and categories, the authorities (whether under this Act or other laws including, but not limited to, the Toxic Substances Control Act, the Federal Insecticide, Fungicide and Rodenticide Act and the Resource Conservation and Recovery Act, administered by the Agency) which will be relied upon to achieve reductions and a schedule for implementing the proposed actions. The strategy may also identify research needs in monitoring, analytical methodology, modeling or pollution control techniques and recommendations for changes in law that would further the goals and objectives of the strategy. In selecting pollutants and categories or subcategories of area sources for control under the strategy, the Administrator shall consider those pollutants and sources that present the highest risks to public health in the largest number of communities. Nothing in this subsection shall be interpreted to preclude or delay implementation of actions with respect to area sources of hazardous air pollutants under consideration pursuant to this or any other law and which may be promulgated before the strategy is prepared. The Administrator shall implement the strategy as expeditiously as practicable.

"(5) In addition to the national urban air toxics strategy authorized by paragraph (4), the Administrator shall also encourage and support areawide strategies developed by State or local air pollution control agencies which are intended to reduce risks from emissions by area sources within a particular urban area. From the funds available for grants under this section, the Administrator shall set aside not less than ten per centum to support areawide strategies addressing hazardous air pollutants emitted by area sources and shall award such funds on a demonstration basis to those States with innovative and effective strategies. At the request of State or local air pollution control officials, the Administrator shall prepare guidelines for control technologies or management practices which may be applicable to various categories or subcategories of area sources.

"(6) The Administrator shall report to the Congress at intervals not later than eight and ten years after the date of enactment of this subsection on actions taken under this subsection and other parts of this Act to reduce the risk to public health posed by the release of hazardous air pollutants from area sources. The reports shall also identify specific metropolitan areas which continue to experience high risks to public health as the result of emissions from area sources.

"(7) The Administrator of the Environmental Protection Agency shall prepare a report with recommendations on health impacts of mobile source benzene emissions considering both fuel and vehicle-based control strategies to be submitted to the Environment and Public Works Committee of the Senate and the Energy and Commerce Committee of the House of Representatives not later than twenty-four months after the date of the enactment of the Toxics Release Prevention Act of 1989.

"(l) STATE PROGRAMS.—

"(1) Each State may develop and submit to the Administrator for approval a program for the implementation and enforcement (including a review of enforcement delegations previously granted) of emission standards and other requirements for air pollutants subject to this section or requirements for the prevention and mitigation of sudden, accidental releases pursuant to section 129. A program submitted by a State under this subsection may provide for partial or complete delegation of the Administrator's authorities and responsibilities to implement and enforce emissions standards and prevention requirements but shall not include authority to set standards less stringent than those promulgated by the Administration under this Act.

"(2) Not later than twelve months after the date of enactment of this paragraph, the Administrator shall publish guidance which would be useful to the States in developing programs for submittal under this subsection. Guidance shall, at a minimum, include permitting requirements for new and existing sources of air pollutants subject to this section. The guidance shall also provide for the registration of all facilities producing, processing, handling or storing any substance listed pursuant to section 129 in amounts greater than the threshold quantity. The Administrator shall include as an element in such guidance an optional program for the review of high-risk point sources of air pollutants including, but not limited to, hazardous air pollutants listed pursuant to subsection (b).

"(3) The Administrator shall establish and maintain an air toxics clearinghouse, control technology center, and risk information center to provide technical assistance and information to the States on measures, methods, practices and techniques effective in reducing the emissions of air pollutants subject to this section or section 129.

"(4) Upon application of a State, the Administrator may make grants, subject to such terms and conditions as the Administrator deems appropriate, to such State for the purpose of assisting the State in developing and implementing a program for submittal and approval under this subsection. Programs assisted under this paragraph may include program elements addressing air pollutants other than those specifically subject to this section or section 129. Grants under this paragraph may include support for high-risk point source review as provided in paragraph (2) and support for the development and implementation of areawide area source programs pursuant to subsection (k).

"(5) Not later than one hundred and eighty days after receiving a program submitted by a State, and after notice and opportunity for public comment, the Administrator shall either approve or disapprove such program. The Administrator shall disapprove any program submitted by a State, if the Administrator determines that—

"(A) the authorities contained in the program (including conditions in permits) are not adequate to assure compliance by all sources within the State with each applicable standard, regulation or requirement established by the Administrator under this section;

"(B) adequate authority does not exist, or adequate resources (including revenues from permit fees) are not available, to implement the program;

"(C) the schedule for implementing the program (including the schedule for issuing permits) and assuring compliance by affected sources is not sufficiently expeditious; or

"(D) the program is otherwise not in compliance with the guidance issued by the Administrator under paragraph (2) or is not likely to satisfy, in whole or in part, the objectives of this Act.

If the Administrator disapproves a State program, the Administrator shall notify the State of any revisions or modifications necessary to obtain approval. The State may revise and resubmit the proposed program for review and approval pursuant to the provisions of this subsection.

"(6) Whenever the Administrator determines, after public hearing, that a State is not administering and enforcing a program approved pursuant to this subsection in accordance with the guidance published pursuant to paragraph (2) or the requirements of paragraph (5), the Administrator shall so notify the State and, if action which will assure prompt compliance is not taken within ninety days, the Administrator shall withdraw approval of the program. The Administrator shall not withdraw approval of any program unless the State shall have been notified and the reasons for withdrawal shall have been stated in writing and made public.

"(7) Nothing in this subsection shall prohibit the Administrator from enforcing any applicable emission standard or requirement under this section or section 129.

"(m) STATE AUTHORITY.—Nothing in this section shall preclude, deny, or limit any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement or standard (including any procedural requirement) which is more stringent than a regulation, requirement or standard in effect under this seciton or that applies to a substance not subject to this section.

"(n) HYDROGEN SULFIDE.—The Administrator is directed to assess the hazards to public health and the environment resulting from the emission of hydrogen sulfide associated with the extraction of oil and natural gas resources. To the extent practicable, the assessment shall build upon and not duplicate work conducted for an assessment pursuant to section 8002(m) of the Solid Waste Disposal Act and shall reflect consultation with the States. The assessment shall include a review of existing State and industry control standards, techniques and enforcement. The Administrator shall report to the Congress within twenty-four months of the enactment of this paragraph with the findings of such assessment, together with any recommendations, and shall develop and implement a control strategy for emissions of hydrogen sulfide as appropriate to protect human health and the environment, based on the findings of such assessment, using authorities under this Act including sections 111 and this section.

"(o) SAVINGS CLAUSE.—No amendment to this section made by the Toxics Release Prevention Act of 1989 shall affect any emission standard for a hazardous air pollutant which has been promulgated prior to the enactment of such Act. Emission standards for categories of sources of radionuclides may be established in accordance with section 112 of the Clean Air Act as in effect prior to the enactment of the Toxics Release Prevention Act of 1989.

"(p) STUDY OF RISK ASSESSMENT.—The Administrator shall conduct a review of risk assessment methods used by the Agency to determine the carcinogenic risks associated with exposure to various hazardous air pollutants and source categories and subcategories subject to the requirements of this section and report to the Congress the results of such review not later than twenty-four months after the date of enactment of this subsection. As element of such review, the Administrator shall examine the factors which may contribute to overestimating or underestimating such risks including the exposure parameters used in establishing carcinogenic risk estimates for the most exposed individual. The Administrator shall compare the parameters used in risk assessments for hazardous air pollutants conducted by the Agency with actual conditions of exposure and comparable assumptions made for exposure to other environmental threats and shall seek the views of the National Research Council on such parameters. The Administrator shall include in the report a description of the range of risk, the number of persons exposed at various levels of risk and the cancer incidence for source categories and subcategories which are listed pursuant to subsection (e)(1)(A). The report shall also include a summary of information and methods for assessing the risk of adverse human health effects for pollutants and effects other than carcinogenicity (including, but not limited to, inheritable genetic mutations, birth defects and reproductive dysfunctions) where no threshold for safe exposure may be determined.

"(q) ANNUAL REPORT.—Not later than January 15, 1991 and within 105 days of the close of the fiscal year for each fiscal year thereafter, the Administrator shall prepare and transmit to the Congress a comprehensive report on the measures taken by the Agency and by the States to implement the provisions of this section and section 129. The Administrator shall maintain a database on pollutants and sources subject to the provisions of this section and shall include aggregate information from the database in each annual report. The report shall include, but not be limited to—

"(1) a status report on standard-setting under subsections (d), (f) and (g);

"(2) information with respect to compliance with such standards including the costs of compliance experienced by sources in various categories and subcategories;

"(3) development and implementation of the national urban air toxics program;

"(4) recommendations of the Chemical Safety and Hazard Investigation Board with respect to the prevention and mitigation of sudden, accidental releases; and

"(5) such recommendations for additional legislation to achieve the purposes of this section and section 129 as the Administrator may deem appropriate.

"(r) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out the provisions of this section.".

SEC. 3. The Clean Air Act is amended by adding the following new section:

"PREVENTION OF SUDDEN, ACCIDENTAL RELEASES

"SEC. 129. (a) PURPOSE AND GENERAL DUTY.—It shall be the objective of the regu-

lations and programs authorized under this section to prevent the sudden, accidental release and to minimize the consequences of any such release of any substance listed pursuant to subsection (b) or any other extremely hazardous substance. The owners and operators of facilities producing, processing, handling or storing such substances have a general duty to identify hazards resulting from such releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of sudden, accidental releases which do occur. Nothing in this subsection shall be interpreted, construed or applied to create any liability for compensation for bodily injury or property damages to any person which may result from sudden, accidental releases of such substances.

"(b) LIST OF SUBSTANCES.—The Administrator shall, not later than twelve months after the date of enactment of this section, proposed and, not later than twenty-four months after such date, promulgate, a list of not less than 50 substances which may, as the result of sudden events, be released in concentrations that may reasonably be anticipated to cause acute adverse health effects in humans. The list shall be drawn from, but not be limited to, those substances on the list established by section 302 of the Emergency Planning and Community Right-to-Know Act of 1986 and shall include those substances with the greatest likelihood to cause death, injury, property damage or evacuations as the result of sudden, accidental releases. The initial list shall include sulfuric acid, chlorine, anhydrous ammonia, hydrochloric acid, sodium hydroxide, methyl chloride, phosphoric acid, ethylene oxide, toluene, vinyl chloride, methyl alcohol, nitric acid, styrene, tetrachloroethylene, ammonia, hydrogen, sulfide, acetone, methylene chloride, benzene, methyl ethyle ketone, toluene diisocyanate, phosgene, polyvinyl chloride, sulfur dioxide (10 percent or more by volume), formaldehyde, butadiene, hydrofluoric acid, and acrylonitrile. The Administrator shall from time to time (but not less often than every five years) review and revise the list established by this subsection adding substances which, as a result of sudden events, may be released in concentrations that may reasonably be anticipated to cause acute adverse health effects in humans. At the time any substance is placed on such list, the Administrator shall establish a threshold quantity for such substance, taking into account the toxicity (including short- and long-term health effects), reactivity, volatility, dispersability, combustability or flammability of the substance.

"(c) HAZARD ASSESSMENTS.—

"(1) Not later than twelve months after a substance is listed under subsection (b), the owner or operator of each facility at which such substance is present in amounts greater than the threshold quantity shall conduct and complete a hazard assessment for each such substance present at the facility. The purpose of such assessment shall be to anticipate the consequences of a range (including worst case events) of sudden, accidental release of such substances from the facility and to provide information that may aid in the prevention, or mitigation, of or response to such releases.

"(2) Not later than twelve months after the date of enactment of this subsection the Administrator shall propose and not later than twenty-four months after such date publish guidance with respect to the preparation of hazard assessments. In preparing such guidance the Administrator shall reveiw and require, as appropriate, each of the following elements—

"(A) basic data on the facility, units at the facility which contain or process substances listed under subsection (b) (including the longitude and latitude of such units), facility operating procedures, population of the nearby communities, and the meteorology of the area where the facility is located;

"(B) an identification of the potential sources of sudden, accidental release from the facility of substances listed under subsection (b);

"(C) an identification of any previous such releases from the facility for which a report was required under this or other laws including the amounts released, frequencies and durations;

"(D) an identification of a range (including worst case events) of potential releases from the facility including an estimate of the size, concentration, and duration of such potential releases and a correlation of such factors with the distance from the source of release;

"(E) a determination of potential exposure (including the concentration and duration of exposure) for all persons who may be put at risk as the result of a sudden, accidental release from the facility;

"(F) a determination of the probability of exposure as the result of various release scenarios including consideration of meteorological factors;

"(G) information on the toxicity of the substances listed under subsection (b) present at the facility;

"(H) a review of the efficacy of various release prevention and control measures; and

"(I) a sensitivity analysis with respect to the uncertainties and assumptions incorporated in the hazard assessment.

"(3) Each hazard assessment prepared pursuant to this subsection shall be updated biennially. Hazard assessments shall not be required to include potential releases from rolling stock infrequently and temporarily located at the facility but shall consider hazards with respect to the substances contained in rolling stock which are regularly present. For purposes of this subsection, the term "facility" does not include the right-of-way of a railroad outside of any railroad yard.

"(4) To the maximum extent practicable, the Administrator shall coordinate requirements for hazard assessments under this section with any comparable requirements that may be imposed by the Occupational Safety and Health Administration including joint promulgation of regulations, provided that, impacts of potential releases on human health and property outside the boundary of the facility are fully considered in any such regulation, that hazard assessments be available to the public as provided in this subsection and that nothing in such regulation is interpreted, construed or applied to preclude or diminish the right of any State or a political subdivision thereof to impose requirements for hazard assessment or accident prevention and mitigation more stringent than those established under such regulations.

"(5) To the extent practicable, and where there are a large number of small facilities with similar business and operating characteristics which are likely to present similar risk of sudden, accidental releases of extremely hazardous substances, the Administrator shall facilitate compliance with the requirements of this subsection by designing generic hazard identification and assessment tools including training manuals, checklists and workbooks which would be useful to the owners and operators of such facilities. The Administrator is authorized to cooperate with trade associations and other organizations representing such facilities and other advisory groups to develop hazard identification and assessment materials and to conduct training programs in the use of such materials.

"(6) Hazard assessments prepared pursuant to the requirements of this subsection shall be available to the Administrator, to the Chemical Safety and Hazard Investigation Board, to the State in which the facility is located, to any local emergency planning entity or public safety agency having responsibility for planning or response to sudden, accidental releases which may occur at such facility, and to the public subject to the conditions of sections 322, 323, and 324 of the Emergency Planning and Community Right-to-Know Act of 1986.

"(7) As a part of the guidance published pursuant to paragraph (2), the Administrator may collect and publish information on accident scenarios and consequences covering a range of possible events for substances listed under subsection (b). The Administrator shall establish a program of long-term research to develop and disseminate information on methods and techniques of hazard assessment which may be useful in improving and validating the procedures employed in the preparation of hazard assessments under this subsection.

"(C) CHEMICAL SAFETY BOARD.—

"(1) There is hereby established within the Environmental Protection Agency an independent safety board to be known as the Chemical Safety and Hazard Investigation Board.

"(2) The Board shall consist of five members including a chairperson who shall be appointed by the President, by and with the advice and consent of the Senate. Two members of the Board shall be appointed by the Administrator of the Environmental Protection Agency, one member shall be appointed by the Secretary of Labor and one member shall be appointed by the Secretary of Transportation. With the exception of the chairperson, members may be designated from personnel of agencies of the United States. Members of the Board shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident, reconstruction, safety engineering, human factors, chemical safety, toxicology or chemical regulation.

"(3) the terms of office of members of the Board shall be five years. Any member of the Board, including the chairperson as determined by the President, may be removed for inefficiency, neglect of duty, or malfeasance in office.

"(4) The chairperson shall be the chief executive officer of the Board and shall exercise the executive and administrative functions of the Board.

"(5) The Board shall—

"(A) investigate (or cause to be investigated), determine and report to the public in writing the facts, conditions, and circumstances and the cause or probable cause of any sudden, accidental release involving the production, processing, handling or storage of chemical substances resulting in a fatality, serious injury or substantial property damages;

"(B) issue periodic reports to the Congress, Federal, State and local agencies, including the Evironmental Protection Agency and the Occupational Safety and Health Administration, concerned with the safety of chemical production, processing, handling and storage, and other interested persons recommending measures to reduce the likelihood or the consequences of sudden, accidental releases and proposing corrective steps to make chemical production, processing, handling and storage as safe and free from risk of injury as is possible and may include in such reports proposed rules or orders which should be issued by the Administration under the authority of this section or the Secretary of Labor under the Occupational Safety and Health Act to prevent or minimize the consequences of any release of substances that may have an acute adverse effect on human health as a result of sudden events; and

"(C) establish by regulation requirements binding on persons for reporting accidental releases subject to the Board's investigatory jurisdiction under this paragraph, provided that reporting releases to the National Response Center, in lieu of the Board directly, shall satisfy such regulations, and provided further that, the Center shall promptly notify the Board of any releases which are within the Board's jurisdiction.

"(6) The Board shall coordinate its actions under paragraph (5) with investigations and studies conducted by other agencies of the United States having a responsibility to protect public health and safety, but in no event shall the Board forego an investigation where a sudden, accidental release involving the production, processing, handling, or storage of a chemical substance causes a fatality or serious injury among the general public. The Board shall enter into a memorandum of understanding with the National Transportation Safety Board to assure coordination of functions and to limit duplication of activities which shall designate the National Transportation Safety Board as the lead agency for the investigation of releases which are transportation related.

"(7) The Board is authorized to conduct research and studies with respect to the potential of the sudden, accidental release of substances subject to section 302 of the Emergency Planning and Community Right-to-Know Act of 1986 and other extremely hazardous substances, whether or not an accidental release has occurred, where there is evidence which indicates the presence of a potential hazard or hazards. To the extent practicable, the Board shall conduct such studies in cooperation with other Federal agencies having emergency response authorities, State and local governmental agencies and associations and organizations from the industrial, commercial, and nonprofit sectors.

"(8) No part of the conclusions, findings, or recommendations of the Board relating to any event or the investigation of such event shall be used as evidence in any suit or action for damages resulting from a release which the Board investigates under this section.

"(9) Not later than eighteen months after the date of enactment of this section, the Board shall publish a report accompanied by recommendations to the Administrator on the use of hazard assessments in preventing the occurrence and minimizing the consequences of sudden, accidental releases of extremely hazardous substances. The recommendations shall include a list of extremely hazardous substances (including threshold quantities for such substances) and categories of facilities for which hazard assessments would be an appropriate measure to aid in the prevention of accidental releases and to minimize the consequences of those releases that do occur. The recommendations shall also include a description of the information and analysis which would be appropriate to include in any hazard assessment. The Board may from time to time review and revise its recommendations under this paragraph.

"(10) Whenever the Board submits a recommendation with respect to the safety of chemical production, processing, handling and storage to the Administrator, the Administrator shall respond to such recommendation formally and in writing not later than one hundred eighty days after receipt thereof. The response to the Board's recommendation by the Administrator shall indicate whether the Administrator will—

"(A) initiate a rule-making or issue such orders as are necessary to implement the recommendation in full or in part, pursuant to any timetable contained in the recommendation;

"(B) decline to initiate a rule-making or issue orders as recommended.

Any determination by the Administrator not to implement a recommendation of the Board or to implement a recommendation only in part, including any variation from the schedule contained in the recommendation, shall be accompanied by a statement from the Administrator setting forth the reasons for such determination.

"(11) The Board, or upon authority of the Board, any member thereof, any administrative law judge employed by or assigned to the Board, or any officer or employee duly designated by the Board, may for the purpose of carrying out duties authorized by paragraph (5)(a)—

"(A) hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or otherwise attendance and testimony of such witnesses and the production of evidence and may require by order that any person engaged in the production, processing, handling, or storage of chemical substances submit written reports and responses to requests and questions within such time and in such form as the Board may require; and

"(B) upon presenting appropriate credentials and a written notice of inspection authority, enter any property where a sudden, accidental release causing a fatality, serious injury or substantial property damage for a proper investigation pursuant to paragraph (5)(a) and inspect at reasonable times records, files, papers, processes, controls, and facilities and take such samples as are relevant to such investigation.

"(12) The Board is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions and duties. The Board is authorized without regard to section 5 of title 41 of the United States Code to enter into contracts, leases, cooperative agreements or other transactions as may be necessary in the conduct of the duties and functions of the Board with any other agency, institution, or person.

"(13) The Administrator shall provide to the board such support and facilities as may be necessary for operation of the Board.

"(14) Any records, reports or information obtained by the Board shall be available to the public, except that upon a showing satisfactory to be the Board by any person that records, reports, or information, or particular part thereof (other than release or emissions data) to which the Board has access, if made public, is likely to cause substantial harm to the person's competitive position, the Board shall consider such record, report, or information or particular portion thereof confidential in accordance with section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, and authorized representatives of the United States concerned with carrying out this act or when relevant under any proceeding under this Act. This paragraph does not constitute authority to withhold records, reports, or information from the Congress.

"(15) The Board shall submit an annual report to the President and to the Congress which shall include, but not be limited to, information or sudden, accidental releases which have been investigated by or reported to the Board during the previous year, recommendations for legislative or administrative action which the Board has made, the actions which have been taken by the Administrator or the heads of other agencies to implement such recommendations, an identification of priorities for study and investigation in the succeeding year, progress in the development of risk reduction technologies and the response to and implementation of significant research findings on chemical safety in the public and private sector.

"(16) There are authorized to be appropriated to carry out the provisions of this subsection not to exceed $12,000,000 in each of the fiscal years ending September 30, 1990, 1991, 1992, 1993, and 1994.

"(d) ACCIDENT PREVENTION.—In order to prevent the release of substances listed pursuant to subsection (b) or other extremely hazardous substances (which may cause acute adverse effects on human health as the result of sudden events) from devices and systems (including, but not limited to, pumps, compressors, valves, flanges, connectors, containers, and vessels but not including rolling stock), the Administrator may promulgate release prevention, detection, and correction requirements which may include monitoring, record-keeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements. Regulations promulgated under this subsection may make distinctions between various types, classes, and kinds of facilities, devices and systems taking into consideration factors including, but not limited to, the size, location, process, process controls, quantity of substances handled, potency of substances, and response capabilities present at any facility. In carrying out the authority of this subsection, the Administrator shall consult with the Secretary of Labor and seek to coordinate any requirements under this subsection with any requirements established for comparable purposes by the Occupational Safety and Health Administration.

"(e) ORDER AUTHORITY.—

"(1) In addition to any other action taken, when the Administrator determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a substance listed pursuant to subsection (b) or other extremely hazardous substance from a facility, the Administrator may secure such relief as may be necessary to abate such danger or threat, and the district court of the United States in the district in which

the threat occurs shall have jurisdiction to grant such relief as the public interest and the equities of the case may require. The Administrator may also, after notice to the State in which the facility is located, take other action under this subsection including, but not limited to, issuing such orders as may be necessary to protect human health, welfare or the environment.

"(2) Any person who willfully violates, or fails or refuses to comply with, any order of the Administrator under paragraph (1) may, in an action brought in the appropriate United States district court to enforce such order, be fined not more than $25,000 for each day in which such violation occurs or failure to comply continues.

"(3) Within one hundred and eighty days after enactment of this section, the Administrator shall publish guidance for using the order authorities established by this subsection. Such guidance shall provide for the coordinated use of the authorities of this subsection with other emergency powers authorized by section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, sections 311(c), 308, 309 and 504(a) of the Federal Water Pollution Control Act, sections 3007, 3008, 3013, and 7003 of the Solid Waste Disposal Act, sections 1445 and 1431 of the Safe Drinking Water Act, sections 5 and 7 of the Toxic Substances Control Act, and sections 113, 114, and 303 of this Act.

"(e) PRESIDENTIAL REVIEW.—The President shall conduct a review of release prevention, mitigation and response authorities of the various Federal agencies and shall clarify and coordinate agency responsibilities to assure the most effective and efficient implementation of such authorities and to identify any deficiencies in authority or resources which may exist. The President may utilize the resources and solicit the recommendations of the Board in conducting such review. At the conclusion of such review, but not later than twenty-four months after the date of enactment of this section, the President shall transmit a message to the Congress on the release prevention, mitigation and response activities of the Federal Government making such recommendations for change in law as the President may deem appropriate. Nothing in this subsection shall be interpreted, construed or applied to authorize the President to modify or reassign release prevention, mitigation or response authorities otherwise established by law.

"(f) STATE AUTHORITY.—Nothing in this section shall preclude, deny or limit any right of a State or political subdivision thereof to adopt or enforce any regulation, requirement or standard (including any procedural requirement) that is more stringent than a regulation, requirement or standard in effect under this section or that applies to a substance not subject to this section.

"(g) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out the provisions of this section.".

SEC. 4. (a) Section 113(c)(1) of the Clean Air Act is amended by striking "shall be punished" and all that follows through the end of the paragraph and inserting in lieu thereof "shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than three years, or by both. If a conviction of such person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $100,000 per day of violation, or by imprisonment of not more than six years, or by both.".

(d) Section 113(c)(2) of the Clean Air Act is amended by striking "$10,000" and inserting in lieu thereof "$25,000"; and by striking "six months" and inserting in lieu thereof "two years".

(c) Section 111(d)(1) of the Clean Air Act is amended by striking "112(b)(1)(A)" and inserting in lieu thereof "112(b)".

(d) Section 111 of the Clean Air Act is amended by striking paragraphs (g)(5) and (g)(6) and redesignating the succeeding paragraphs accordingly. Such section is further amended by striking "or section 112" in paragraph (g)(7).

(e) Section 113 of the Clean Air Act is amended by striking "112(c)" wherever it occurs and inserting in lieu thereof "112".

(f) Section 113 of the Clean Air Act is amended by inserting "section 129 (relating to accident prevention)," before "or 119(g)" in subsection (a)(3). Such section is further amended by inserting "section 129 (relating to accident prevention)," before "subsection (d)(5)" in subsection (b)(3). Such section is further amended by inserting "section 129," after "section 112," in subsection (c)(1)(C).

(g) Section 114(a) of the Clean Air Act is amended by striking "or" after "section 111," and by inserting ", or any accident prevention regulation under section 129," after "section 112".

(h) Section 118(b) of the Clean Air Act is amended by striking "112(c)" and inserting in lieu thereof "112(i)(3)".

(i) Section 302(k) of the Clean Air Act is amended by adding before the period at the end thereof ", and any design, equipment, work practice or operational standard authorized by this Act constitutes a violation of an 'emission standard' whether or not an air pollutant is emitted to the ambient air.".

(j) Section 304(b)(1) of the Clean Air Act is amended by striking "112(c)(1)(B)" and inserting in lieu thereof "112".

(k) Section 307(b)(1) is amended by striking "112(c)" and inserting in lieu thereof "112".

Mr. LAUTENBERG. I am pleased this morning to join Senator DURENBERGER, Senator BREAUX and other members of the Senate Environment Committee in introducing the Toxics Release Prevention Act of 1989. This bill requires EPA to establish a new program to control routine and accidental emissions of air toxics which can cause illness and death and poison our environment.

Earlier this year, Senator BAUCUS, chairman of the Environmental Protection Subcommittee, announced his schedule for addressing clean air legislation this year. He decided that air toxics legislation would be developed first and he asked me, Senator DURENBERGER and Senator BREAUX to work to develop legislation which all three members could support. The Toxics Release Prevention Act of 1989 represents the work of myself, Senators DURENBERGER and BREAUX, and other members of the Senate Environment Committee. I want to thank all of the members who have joined as cosponsors, and I particularly want to thank, Senator DURENBERGER and Senator BREAUX for their efforts in developing this legislation.

This bill represents a compromise. And as with any compromise, there are aspects of the bill which I would have drafted differently had I introduced this bill on my own. But I believe we have significantly increased the likelihood of passing strong air toxics legislation by working cooperatively at this time. And, what is most important is passing a strong air toxics bill.

Mr. President, this bill is long overdue. Toxics air pollutants presents one of the most serious threats to human health. An EPA study of just 20 toxic air pollutants concluded that these pollutants resulted in 1,700 to 2,000 cancer cases a year. EPA's own 1987 comparative analysis of risks concluded that toxic air pollutants posed a high risk of cancer and noncancer health risks when compared to other sources of pollution.

And an EPA evaluation of 2,650 facilities emitting 16 hazardous air pollutants concluded that almost one-fourth of the sources presented risks of cancer at greater than 1 in 10,000 persons to the most exposed individual. One source actually presented a risk greater than 1 in 10 of getting cancer.

Air toxics also are increasingly believed to be a cause of environmental contamination of our precious water resources. Air toxics account for roughly 25 percent of the total toxic loading to the Great Lakes. And while EPA has yet to examine the effect of air toxics on coastal waters, EPA scientists believe that the air toxics problems identified in the Great Lakes are likely to be found also in coastal waters.

Last week, EPA released air toxics emissions data under the right-to-know legislation which I sponsored. This data showed that 2.7 billion pounds of air toxics were released in 1987 by companies required to report under the right-to-know law. Eighty of these chemicals were emitted in amounts greater than 1 million pounds in the year. I ask unanimous consent to include a section of a report prepared by the National Wildlife Federation, "Danger Downwind: A Report on the Release of Billions of Pounds of Toxic Air Pollutants," which describes the health and environmental effects of the 25 chemicals emitted in the largest quantities.

And what is even more staggering is that the 2.7 billion pound total does not include releases of toxics from mobil sources, facilities which did not comply with the reporting requirements, and facilities not covered by the right-to-know legislation. This later category includes Federal facilities, which account for one-third of all Superfund sites, tank farms, incinerators, and other hazardous waste treatment, storage, and disposal facili-

ties. The total emissions of air toxics could be three to four times higher than the reported level.

Yet, since the Clean Air Act was first enacted in 1970, EPA has designated just eight chemicals as hazardous air pollutants. It's clear that the existing regulatory system is floundering.

The staggering amount of air toxics releases, together with the threat to public health and environment which they pose, and EPA's failure to act, make an overwhelming case to enact air toxics legislation.

But we also need to be concerned about catastrophic accidents involving acutely toxic air pollutants, not just routine emissions. EPA says that between 1980 and 1985, it has data that there have almost 7,000 accidents resulting in roughly 4,700 injuries and 140 deaths and evaculations of of more than 217,000 people. And EPA believes that this is one-third to one-half of the number of actual chemical accidents.

The right-to-know legislation, which I authored, partially addresses this problem by requiring industry to make information available to communities which can then plan for emergencies. But the record of accidents in the United States makes it clear that more needs to be done to protect the public from accidents like the one which occurred in Bhopal. We need to ensure that industry handles extremely hazardous substances with extreme care. If there is anything to learn from the massive oil spill in Prince William Sound, it is that we must take all feasible actions to prevent accidents from occurring.

The Toxics Release Prevention Act of 1989 addresses both routine and catastrophic releases of air toxics. It requires EPA to regulate categories of sources which release certain levels of hazardous air pollutants. Last year's bill included a list of 224 hazardous air pollutants. EPA has proposed a list with 186 chemicals. Eleven of the top 100 emissions of air toxics identified in the right-to-know data are not on either list. The Environment Committee will be refining this list based in large part on the right-to-know data.

Facilities emitting these air toxics in certain amounts will be required to install the maximum available control technology. This can include process changes and materials substitution to reduce or eliminate the generation of toxic air pollutants and a prohibition on such emissions where achievable. If after installation of this technology, remaining emissions present a significant risk of adverse effects on human health or a threat of adverse environmental effects, facilities will have to further reduce their emissions to protect against adverse effects to human health, with an adequate margin of safety, and the environment.

For carcinogens, facilities are required to reduce their emissions to levels which eliminate all lifetime risks of carcinogenic effects greater than 1 in 1 million to the individual in the population who is most exposed to emissions of the pollutant. Facilities would be able to seek an exception to this requirement only where they could show that the emission poses a risk no greater than 1 in 10,000 and that the facility cannot achieve the 1 in 1 million standard using all available technology and operational controls including process modifications and materials substitution. This exception must be renewed every 5 years.

Mr. President, the bill allows for an additional 5-year extension for facilities which cannot achieve the 1 in 10,000 standard within the prescribed timeframe. I am, quite frankly, troubled by this provision. During discussions with other Members, I proposed limiting this extension. I have been assured by Senator BAUCUS, Chairman of the Environmental Pollution Subcommittee, that the subcommittee will continue to work on limiting and tightening this extension.

The bill also establishes a process for addressing the problem of urban air toxics. In urban areas, there is a soup of hazardous air pollutants which create health risks. Many of the sources of these pollutants are smaller facilities which in and of themselves would not cause a health risk but cumulatively cause significant problems. The bill for the first time establishes a process for EPA and the States to identify the scope of the urban air toxics problem and to initiate actions to address the problem.

Finally, the bill builds upon the program we created in the emergency planning and community right-to-know law by requiring facilities to prepare hazard assessments which are designed to prevent accidents from occurring when they handle acutely hazardous substances. The bill also establishes an independent Chemical Safety and Hazard Assessment Board, modeled after the National Transportation Safety Board, to investigate accidents and make recommendations on measures to prevent accidents from occurring. EPA would be required to respond to each recommendation made by the Board.

Mr. President, the introduction of this legislation is the first but not the final step in passing air toxics legislation in the Senate. There are a number of areas that the Environment Committee still needs to work on. These include refining the list of hazardous air pollutants and the floor for determining maximum achievable control technology, and addressing issues regarding regulating facility modifications and mobil sources of air pollution. We also need to review whether to strengthen the program to address urban air toxics.

But this legislation represents an important step. It makes clear our determination that the clean air amendments we will enact this Congress include a strong program to address routine and accidental emissions of toxic air pollutants. I urge my colleagues to join in cosponsoring this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX D—PROFILES OF THE 25 CHEMICALS EMITTED IN LARGEST QUANTITIES

The profiles include the total amount released, the three states with the most significant emissions, and brief toxicological summaries for each of the 25 chemicals emitted in largest quantities according to the EPA Toxic Release Inventory report.

The toxicological summaries are derived from several sources including: the Hazardous Substance Data Bank maintained at the National Library of Medicine, EPA's TRI Fact Sheets, the Agency for Toxic Substances and Disease Registry's Toxicological Profiles, the Installation Restoration Program's Toxicology Guide, and Casarett and Doull's Toxicology.

TOLUENE

Over 235 million pounds of toluene were emitted into the air by industries in 1987. Toluene ranked #1 for air emissions in 1987, according to the EPA's Toxic Release Inventory data. The three states releasing the most toluene were North Carolina (22.39 million), Michigan (15.74 million), and Illinois (13.70 million pounds).

Toluene is a flammable, colorless liquid. It is used as a solvent in the manufacture of perfumes, medicines, dyes, explosives, detergents, aviation gasoline, and other chemicals. Toluene can cause mutations in living cells and damage developing fetuses. It can also damage the liver, kidney, brain, and bone marrow (resulting in low blood cell count). Acute exposures can irritate the nose, throat, and eyes, cause confusion, headache, slowed reflexes, loss of consciousness, and death.

AMMONIA

Over 233 million pounds of ammonia were emitted into the air by industries in 1987. Ammonia as released into the air in quantities second only to toluene, according to the TRI report. The three states releasing the most ammonia were Louisiana (70.23 million), Alaska (30.18 million), and Arkansas (17.57 million pounds).

Ammonia is used in the manufacture of fertilizers, explosives, and other chemicals. Chronic exposure damages the lungs, possibly causing bronchitis. Acute ammonia exposure irritates the skin, burns the eyes causing temporary or permanent blindness, and causes pulmonary or laryngeal edema, which may lead to death.

ACETONE

Over 186 million pounds of acetone were emitted into the air by industries in 1987. Acetone ranked 3rd in the TRI report. The three states releasing the most acetone were Tennessee (40.11 million), Texas (17.76 million), and Virginia (14.79 million pounds).

Acetone is a flammable, colorless liquid. It is found in paints, varnishes, and lacquers, and is used as a solvent for cements in the leather and rubber industry. Chronic acetone exposure can damage the skin, liver,

and kidneys. Acute exposure can irritate the skin, eyes, nose, and throat, and may cause dizziness, lightheadedness, and loss of consciousness.

METHANOL

Over 182 million pounds of methanol were emitted into the air by industries in 1987. Methanol ranked 4th in the TRI report. The three states releasing the most methanol were Georgia (33.29 million), South Carolina (17.25 million), and Virginia (15.44 million pounds).

Methanol is a flammable, colorless liquid used as a solvent and cleaner. Chronic methanol exposure can damage the liver. Expulsion from the body is relatively slow, such that repeated exposures can cause a build up of methanol in the blood and tissue. Acute exposure can irritate the eyes, nose, mouth, and throat, and at high concentrations can cause headaches, nausea, vomiting, dizziness, and death. Breathing the vapor or absorbing the liquid through the skin may cause permanent blindness.

CARBON DISULFIDE

Over 137 million pounds of carbon disulfide were emitted into the air by industries in 1987. Carbon disulfide ranked 5th on the TRI report. The three states releasing the most carbon disulfide were Virginia (49.48 million), Alabama (43.73 million), and Tennessee (22.35 million pounds).

Carbon disulfide is a flammable liquid used in the manufacture of viscose rayon, cellophane, carbon tetrachloride, and flotation agents. Chronic exposure can damage developing fetuses, and may cause sperm abnormalities in men and spontaneous abortions in women. Carbon disulfide can cause severe changes in the brain and nervous system, tingling, pain, weakness in the legs, coordination and balance disorders, stomach trouble, and very severe mood, personality, and thought changes including nightmares and poor concentration. Carbon disulfide may also cause increased cholesterol, atherosclerosis, high blood pressure, and heart disease. Acute exposure irritates the eyes, skin, and nose, and causes headaches, nausea, lightheadedness, dizziness, unconsciousness, and death. Mental changes may occur and last for months or years.

1,1,1 TRICHLOROETHANE

Over 130 million pounds of 1,1,1 trichloroethane (methyl chloroform) were emitted into the air by industries in 1987. It ranked 6th on the TRI report. The three states releasing the most 1,1,1 trichloroethane were California (15.42 million), Connecticut (9.58 million), and Ohio (9.25 million pounds).

1,1,1 trichloroethane is a colorless liquid used as a cleaning solvent. It can cause mutations in living cells, and may damage the liver, kidneys, and skin. Acute exposures may irritate the skin and eyes, and may cause dizziness, lightheadedness, unconsciousness, irregular heartbeat, and death.

METHYL ETHYL KETONE

Over 124 million pounds of methyl ethyl ketone were emitted into the air by industries in 1987. It ranked 7th on the TRI report. The three states releasing the most methyl ethyl ketone were Michigan (12.41 million), Ohio (11.46 million), and Viginia (7.04) million pounds).

Methyl ethyle ketone is a flammable, colorless liquid used as a solvent and in making plastics, textiles, and paints. Methyl ethyl ketone is a teratogen (an agent which causes birth defects) in animals, and is a suspected teratogen in humans. Repeated exposure, in conjunction with other solvents, can damage the nervous system, causing weakness and numbness in the hands and feet. Acute exposures can burn the skin and eyes, leading to permanent damage. The vapors also can irritate the nose, mouth, and throat, and cause dizziness, lightheadedness, headache, nausea, blurred vision, and loss of consciousness.

XYLENE (MIXED ISOMERS)

Over 120 million pounds of xylene were emitted into the air by industries in 1987. Xylenes ranked 8th on the TRI report. The three states releasing the most xylene isomers were Michigan (16.92 million), Ohio (11.25 million), and Illinois (7.53. million pounds).

Xylenes are flammable liquids used as solvents and in making drugs, dyes, insecticides, and gasoline. Chronic xylene exposure may damage the liver, kidneys, skin, eyes, and bone marrow, as well as developing fetuses. Acute exposures can irritate the eyes, nose, and throat, and may cause headache, nausea, vomiting, tiredness, stomach upset, dizziness, lightheadedness, loss of consciousness, and death.

DICHLOROMETHANE

Over 112 million pounds of dichloromethane were emitted into the air by industries in 1987. It ranked 9th on the TRI report. The three states releasing the most dichloromethane were New York (13.24 million), Illinois (10.57 million), and Indiana (10.24 million pounds).

Dichloromethane is a clear liquid used as an industrial solvent and a paint stripper. It is also used in certain aerosol and pesticide products and in the manufacture of photographic film. Chronic effects of exposure in animals include changes in the liver and kidneys, and cancer. Memory loss was also noted as a chronic exposure effect. Acute dichloromethane exposure results in respiratory tract irritation, sluggishness, intoxication, lightheadedness, nausea, headache, tingling in limbs, unconsciousness, and death.

CHLORINE

Over 103 million pounds of chlorine were emitted into the air by industries in 1987. It ranked 10th on the TRI report. The three states releasing the most chlorine were Utah (68.34 million), Georgia (4.61 million), and Michigan (3.92 million pounds).

Chlorine is a greenish-yellow gas used in making many solvents, disinfectants, cleaners, and other chemicals. Chronic exposure can damage the teeth and irritate the lungs, causing bronchitis, coughing, and shortness of breath. Acute exposure to chlorine can severely burn the eyes and skin causing permanent damage, and may cause throat irritation, tearing, coughing, nose bleeds, and chest pain, pulmonary edema and death.

ALUMINUM OXIDE

Over 73 million pounds of aluminum oxide were emitted into the air by industries in 1987. It ranked 11th on the TRI report. The three states releasing the most aluminum oxide were Texas (14.32 million), Washington (10.95 million), and Kentucky (6.90 million pounds).

Aluminum oxide is used in chemical reactions and in the manufacture of alloys and cements; it is also found in paints, varnishes, and ceramics. Aluminum oxide appears to irritate and damage the respiratory system. Some researchers believe that it plays a role in a type of brain disease, although aerosols besides those of aluminum oxide may be responsible for documented cases.

ETHYLENE

Over 54 million pounds of ethylene were emitted into the air by industries in 1987. Ethylene ranked 12th in the TRI report. The three states releasing the most ethylene were Texas (41.89 million), Louisiana (6.37 million), and Iowa (1.56 million pounds).

Ethylene is a flammable, explosive gas (or liquid at lower temperatures) which is used as a refrigerant and in welding and cutting metals. Exposure to ethylene can cause dizziness, lightheadedness, and loss of consciousness. Contact with liquid ethylene can cause frostbite. Little evidence is available about the chronic effects of ethylene exposure. Ethylene can contribute to low-level ozone pollution.

HYDROCHLORIC ACID

Over 50 million pounds of hydrochloric acid were emitted into the air by industries in 1987. It ranked 13th on the TRI report. The three states releasing the most hydrochloric acid were Georgia (10.91 million), New York (6.35 million), and Ohio (4.03 million pounds).

Hydrochloric acid is a colorless, corrosive liquid used in metal processing, chemical synthesis, and analytical chemistry. Chronic exposure irritates and damages the skin, teeth, and possibly the lungs. Acute exposure can cause severe burns of the skin and eyes, leading to permanent damage with loss of sight. The inhalation of hydrochloric acid vapor irritates the mouth, nose, throat, and lungs, causing coughing, shortness of breath, pulmonary edema, and death.

FREON 113

Over 49 million pounds of Freon 113 were emitted in 1987. It ranked 14th on the TRI report. The three states releasing the most Freon 113 were California (5.72 million), New York (3.39 million), and Massachusetts (2.70 million pounds).

Exposure to Freon 113 irritates the eyes, nose, and throat. Breathing Freon 113 vapors causes sleepiness, confusion, irregular heartbeat, and possibly death. Freon 113 also destroys the ozone layer which serves to shield the Earth from the Sun's harmful ultraviolet radiation. As the ozone layer is depleted, malignant melanomas and other skin cancers are expected to increase as a result of increasing intensity of ultraviolet radiation. Freon 113 is also a major contributor to the greenhouse effect.

TRICHLOROETHYLENE

Over 47 million pounds of trichloroethylene were emitted into the air by industries in 1987. Trichloroethylene ranked 15th in the TRI report. The three states releasing the most trichloroethylene were Indiana (5.94 million), Illinois (5.91 million), and New York (3.32 million pounds).

Trichloroethylene is a colorless liquid used as a solvent for metal degreasing (roughly 80% of US production) and dry cleaning. The chemical is also used in printing inks, paints, lacquers, varnishes, and adhesives. Trichloroethylene is a suspected human carcinogen and teratogen (agent which causes birth defects). Chronic exposure can damage the skin, liver, kidneys, and facial nerves, and cause memory loss, headache, alcohol intolerance, depression, and weakness in the arms and legs. Acute exposure can irritate and damage the skin, eyes, nose, throat, and lungs, and at high levels may cause lightheadedness, dizziness, visual disturbances, nausea, vomiting, irregular heartbeat, unconsciousness, pulmonary edema, and death.

PROPYLENE

Over 37 million pounds of propylene were emitted into the air by industries in 1987. It ranked 16th on the TRI report. The three states releasing the most propylene were Texas (24.41 million), Louisiana (4.20 million), and Ohio (3.55 million pounds).

Propylene is a highly flammable, colorless gas used in the production of many organic chemicals including resins, plastics, synthetic rubber, and gasoline. Chronic propylene exposure may damage the liver. Acute exposure causes, dizziness, loss of consciousness and death. Propylene can contribute to low-level ozone pollution.

GLYCOL ETHERS

Over 32 million pounds of glycol ethers were emitted into the air by industries in 1987. It ranked 17th on the TRI report. The three states releasing the most glycol ethers were Michigan (5.24 million), Ohio (4.42 million), and Montana (2.92 million pounds).

Glycol ethers are used in industry as solvents in the manufacture of lacquers, varnishes, resins, printing inks, textile dyes, brake fluid anti-icing additives, and as gasoline additives. They are also found in latex paints and cleaners. Glycol ethers are reproductive toxicants and teratogens in animals, causing infertility and birth defects. Some animal studies suggest they are carcinogens. Acute glycol ether exposure can irritate upper respiratory passages, and the eyes, and may cause drowsiness, vertigo, headache, anorexia, stomach pain, nausea, vomiting, coma, and death.

TETRACHLOROETHYLENE

Over 28 million pounds of tetrachloroethylene were emitted into the air by industries in 1987. It ranked 18th on the TRI report. The three states releasing the most tetrachloroethylene were California (5.85 million), Connecticut (2.88 million), and Iowa (2.74 million pounds).

Tetrachloroethylene is a clear liquid used in dry cleaning (roughly 70%), metal degreasing, and chemical synthesis. Tetrachloroethylene causes liver cancer in animals, and is a suspected human carcinogen. Chronic exposure may damage developing fetuses. Acute exposure to tetrachloroethylene irritates the skin, eyes, nose, mouth, and throat, damages the liver, kidneys, and lungs, and may cause dizziness, headache, sleepiness, confusion, nausea, difficulty in speaking and walking, irregular heartbeat, unconsciousness, pulmonary edema, and death.

N-BUTYL ALCOHOL

Over 27 million pounds of n-butyl alcohol were emitted into the air by industries in 1987. It ranked 19th on the TRI list. The three states releasing the most n-butyl alcohol were Texas (4.11 million), Michigan (2.57 million), and Ohio (2.23 million pounds).

N-butyl alcohol is a flammable, colorless liquid used as a solvent for fats, waxes, shellac, resins, gums, and varnish. Chronic exposure to n-butyl alcohol can damage the liver, skin, hearing and sense of balance. Acute exposure can irritate the nose, throat, eyes, and skin, and may cause headaches, dizziness, lightheadedness, and loss of consciousness.

METHYL ISOBUTYL KETONE

Over 25 million pounds of methyl isobutyl ketone were emitted into the air by industries in 1987. It ranked 20th on the TRI report. The three statres releasing the most aluminum oxide were Georgia (2.55 million), Alabama (2.19 million), and New York (1.81 million pounds).

Methyl isobutyl ketone is used in chemical synthesis and dry cleaning preparations, and as solvent for lacquers, paints, varnishes, and coatings. Exposure to methyl isobutyl ketone can irritate the eyes, nose, and throat, and may cause weakness, headache, nausea, vomiting, dizziness, loss of coordination, stomach pain, insomnia, and liver damage.

BENZENE

Over 24 million pounds of benzene were emitted into the air by industries in 1987. Benzene ranked 21st on the EPA's Toxic Release Inventory report. The three states releasing the most benzene were Texas (6.06 million), Ohio, (2.23 million), and Illinois (1.93 million pounds).

Benzene is a flammable, colorless liquid used as an industrial solvent, and found in small amounts in gasoline. Benzene is a carcinogen and chronic exposure can cause leukemia. Benzene may also cause birth defects. Long-term or chronic benzene exposure can cause death by damaging the blood-forming organs (aplastic anemia). Acute or severe exposure causes irritation of the eyes, nose, and throat, lightheadedness, headache, vomiting, convulsions, coma, and death.

STYRENE

Over 24 million pounds of styrene were emitted into the air by industries in 1987. It ranked 22nd on the TRI report. The three states releasing the most styrene were Texas (4.01 million), Ohio (1.72 million), and Washington (1.72 million pounds).

Styrene is a colorless, oily liquid used in making polystyrene plastics protective coatings, polyesters, resins, and other chemicals. Chronic exposure to styrene can cause genetic mutations, headaches, numbness, upset stomach, memory and concentration difficulty, trouble with learning, slowed reflexes, and balance disorders, and may damage developing fetuses, and decrease fertility in women. Styrene may also cause lung cancer in animals, and is possible carcinogen for humans. Acute exposure irritates the eyes, nose, throat, and skin, and can cause dizziness, lightheadedness, loss of consciousness, brain damage, liver damage, and death.

CHLOROFORM

Over 23 million pounds of chloroform were emitted into the air by industries in 1987. It ranked 23rd on the TRI report. The three states releasing the most chloroform were North Carolina (3.53 million), Virginia (3.09 million), and Alabama (1.97 million pounds).

Chloroform is a colorless liquid used as a solvent and in making dyes, drugs, and pesticides. Chloroform is a probable carcinogen in humans, and has been shown to cause liver, kidney, and thyroid cancer in animals. There is evidence that chloroform is a teratogen in animals. Chronic chloroform exposure can also damage the skin, liver, kidneys, and nervous system. Acute exposure can irritate and burn the skin, eyes, nose, and throat, and cause dizziness, lightheadedness, headache, confusion, and irregular heartbeat which may lead to death.

CHLOROMETHANE

Over 20 million pounds of chloromethane were emitted into the air by industries in 1987. It ranked 24th on the TRI report. The three states releasing the most chloromethane were Illinois (6.66 million), Indians (6.66 million), and Texas (1.15 million pounds).

Chloromethane is a flammable, colorless gas used as a refrigerant and in the manufacture of other chemicals. Evidence suggests that chloromethane causes cancer in animals. In humans, chloromethane may effect the testes causing decreased production of male hormones and sperm. Chronic chloromethane exposure also can irritate the lungs, damage the liver, kidneys, and blood-forming organs, and interfere with brain function, causing clumsiness, headache, dizziness, poor judgement and memory, slurred speech, sleep disturbances, and personality changes and depression and irritability. Acute exposure may damage the liver, kidneys, and eyes, and can cause blurred vision intoxication, dizziness, nausea, vomiting, diarrhea, drowsiness, unconsciousness, convulsions, pulmonary edema, and death.

CARBONYL SULFIDE

Over 19 million pounds of carbonyl sulfide were emitted into the air by industries in 1987. It ranked 25th on the TRI report. The three states releasing the most carbonyl sulfide were Tennessee (10.00 million), Mississippi (6.00 million), and Louisiana (2.11 million pounds).

Carbonyl sulfide is used as an intermediate in the synthesis of a variety of organic compounds. Exposure to carbonyl sulfide can irritate the eyes and skin, and can cause nausea, vomiting, diarrhea, giddiness, headache, vertigo, amnesia, confusion, sweating, irregular heartbeat, and unconsciousness. Respiratory paralysis may occur, causing death.

Mr. BAUCUS addressed the Chair.

The ACTING PRESIDING pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, first, I want to thank the Senator from New Jersey [Mr. LAUTENBERG] who has been very helpful and a very key Senator in putting together the air toxics bill that the Senator just mentioned.

There are various Senators in the Senate who are working very hard to fashion a clean air act, and I can think of none who are working harder than the Senator from New Jersey. He is a very, very forthright and very valuable member of our committee. Frankly, Mr. President, he is a necessary and essential member of our committee, if we are going to have a clean air bill. I thank the Senator for his very important statement.

Two months ago I asked several of my colleagues to work together to develop air toxics legislation. Today we are introducing the product of their efforts, as well as the efforts of other members of the Environmental Public Works Committee. We are addressing the issue because of the breakdown of the current air toxics program, authorized under section 112 of the Clean Air Act.

In 1970, Congress provided EPA with the authority to control toxic air emissions. It is now 1989, 19 years later, and EPA has set standards for 7 pollutants. States have set standards for 708.

Data available from the Superfund Title III, and released earlier this month, indicates that 2.4 billion

pounds of the listed pollutants are released into our country's environment each year. And over 5 million pounds were released in Montana. Eight states released more than 100 million pounds each. These pollutants have varying effects. They include substances that cause cancer, deplete the ozone layer, and harm fish and wildlife.

We use almost 70,000 chemicals in this country. Two years ago EPA looked at just 20 of those chemicals and concluded that these pollutants could cause more than 2,000 cancer cases per year.

Unfortunately, recent litigation in various courts requires EPA to review the way they set standards for the seven pollutants. This litigation has frozen EPA's toxic program. That is the major problem we are facing today.

For that reason, Congress must act. We begin that process today by introducing air toxics legislation. I am pleased that the team I asked to spearhead this effort has been so successful. Senators DURENBERGER, LAUTENBERG, and BREAUX deserve great credit for the hard work invested in this product.

The bill we are introducing today is a compromise. For my part, I am particularly aware of concerns raised by western industries and I will give them careful consideration. In our discussions last week, it was clear that these are difficult choices. Not all issues have been resolved; not all impacts are clear. We will review the comments we receive on this legislation very carefully and try to address all reasonable concerns.

This is the first stage of a three-part process. Next, Senator CHAFEE and I will begin the process of developing an ozone and carbon monoxide non-attainment proposal. We hope to have this proposal ready in early May. Third, we will focus on acid rain.

Senator MITCHELL and I will focus on acid rain legislation which should be introduced in early June.

These are all difficult issues. There is no perfect solution. But there is a public health crisis that will worsen if we do not act.

This first step on air toxics is a good one. At this morning's hearing on health effects of air pollution, health professionals will tell us how important the next two steps will be in the battle to protect the public health from dirty air.

Mr. President, we are also today requesting the cost estimates of the bill we are introducing from CBO, CRS, and OCA. It is very important that we get those cost estimates, and it is also very important that the Environmental and Public Works Committee be the entity that requests those studies, so that we have the best information available.

Mr. BURDICK. Mr. President, today I join my colleagues of the Committee on Environment and Public Works as a sponsor of the Air Toxics Release and Accident Prevention Act of 1989. This legislation is long overdue and it is necessary.

Toxic air pollution has long been recognized as a threat to public health. Only last week, EPA released documentation that 2.7 billion pounds of air toxics went into the air in 1987. These data tell us the existing act needs to be fixed.

The bill being introduced is the product of 6 weeks of deliberation and compromise. I want to acknowledge the efforts of Senators DURENBURGER, BREAUX, and LAUTENBERG in developing this vital piece of comprehensive Clean Air Act amendments.

My neighbor from Minnesota has worked tirelessly for many years in crafting an effective alternative to section 112 of the Clean Air Act. I commend him for his efforts. My thanks to Senators LAUTENBERG and BREAUX—both major players in forging this bill.

Their spirit of cooperation has been heartening. This is the first of three bills which make up the committee's comprehensive Clean Air Act amendments. Like any compromise, not everyone is completely happy with this bill.

I believe this bill will go a long way to address the many shortcomings of section 112 of the Clean Air Act. We now move on to nonattainment and acid rain. I urge all my colleagues to share their concerns with members of the committee.

Clean air legislation will be considered this year. We need your comments and suggestions if we are to develop a bill which is representative of the Senate as a whole. This is a positive first step. I thank the Chair.

Mr. MITCHELL. Mr. President, I am pleased to support legislation introduced today to control toxic air emissions. As recent data indicates, this is a very important health problem.

It is also a more serious problem than many of us previously believed. In 1986, we required, as part of Superfund reauthorization, facilities handling toxic substances to collect information about their releases of toxic pollutants. This was required despite strenuous opposition from industries.

Almost 2.5 billion pounds of toxic pollutants are released each year. This number may represent only 25 percent of the total amount because not everyone was required to report and not all those subject to this requirement did report their emissions.

Toxic air emissions can be deadly. For example, 3 in 10 people living around a butadiene plant are expected to develop cancer due to toxic air emissions. This cancer risk is well above what any responsible health professional would accept.

This legislation will reduce emissions significantly. By using technology-based controls, EPA will have the authority for a more effective and broader program. We provide a health-based backup to assure that if the technology is not there, health protection is.

In addition, we protect the environment. This is important in Casco Bay in Maine, where air toxics—including formaldehyde emissions that are suspected of causing cancer—are part of the contamination problem in that area.

I am especially pleased the team designated by Senator BAUCUS has been able to work through differences to develop this strong but feasible approach. This bill is a reflection of the hard work Members and staff have put into the issue. No legislation is perfect, but this a solid approach that I hope will be carefully reviewed by other Members.

This morning, Senator BAUCUS is also chairing a hearing on the health effects of ambient air pollutants such as sulfur dioxide, ozone, and acid aerosols. Two years ago I chaired health hearings during which we were told that 2 to 5 percent of all illness and death in this country is attributable to air pollution. Unless we act to improve air quality, this number can only increase.

We must consider clean air legislation this year. I have previously told my colleagues that we will have a vote on this issue this Congress.

Today's dual effort on clean air is testament to Senator BAUCUS' vigorous leadership. I applaud his efforts and look forward to continuing to work with him on clean air issues.

Mr. BREAUX. Mr. President, I am pleased to rise today as a cosponsor of important and aggressive legislation to amend portions of the Clean Air Act dealing with emissions of toxic air pollutants. Our amendments would put in place a program of technology-based standards for the control of these pollutants, a program that we expect would lead to very significant reductions in the emissions of these compounds across the Nation. The current section 112 program within the act which was intended to deal with these pollutants has resulted in regulation of only a handful of pollutants. The current program is unworkable, and it is essential that the Congress address this important piece of the clean air puzzle as we work to strengthen and refine this important statute during this Congress.

On February 28 of this year, a group of Senators who are members of the Committee on Environment and Public Works came to the Senate floor to discuss the committee's plans with regard to the reauthorization of the Clean Air Act. At that time, our respected chairman of the Environmen-

tal Protection Subcommittee, Senator BAUCUS, announced that the committee would tackle the issue of air toxics as its first order of business, and indicated a target date of April 3 for introduction of a bill on this subject. At the request of Senator BAUCUS, I joined Senators DURENBERGER and LAUTENBERG in focusing on the air toxics issue. We were aided in that effort by other interested members of the committee, and the legislation we introduce today is the product of our discussions. Our schedule was forced to slip a bit, but I believe our work product has benefited from the few extra days we have consumed in producing today's bill.

The issue of air toxics, Mr. President, is one of particular interest to me and to my home State of Louisiana. As many of my colleagues know, Louisiana is home to very significant elements of the oil, gas, and chemical industries. These industries, and those related industries that depend upon them for their existence, still employ many thousands of Louisianians at a time when my State has the sad distinction of the highest unemployment rate in the country. Many individuals have been forced to relocate to other States because of our difficult economic times. This industrial base is important to Louisiana, and, while efforts to diversify the State's economy continue, these industries are likely to be of economic importance to us for years to come. The actions we take in dealing with air emissions have important economic consequences for these industries and, therefore, for the economic health of Louisiana.

But Louisiana faces other serious problems in addition to its difficult economic situation. Of particular relevance in the context of today's bill, Louisiana ranks third in the Nation in emissions of hazardous air pollutants, with over 135 million pounds of releases reported in 1987. This must be addressed. While it is difficult to know with certainty what the possible implications for public health may be, it is clear that industry can and must do a much better job in dramatically reducing its emissions, and the Federal and State government must do a much better job of ensuring that the public health and our environment are protected. Public health and environmental protection cannot be sacrificed to the economic health of an industry, but this does not mean that we should be blind to the cost of the programs we enact into law. Rather, we must work to find ways to minimize the costs while meeting our objectives of protecting the health of our citizenry and the quality of our environment.

Mr. President, the legislation we are introducing today is tough. Hundreds of chemicals emitted by tens of thousands of businesses will be subject to aggressive new regulations requiring the installation of technology to assure the maximum achievable control of those emissions. This will be a monumental undertaking, and we are putting in place a new program from the ground up to accomplish this task. Within 2 years of enactment, EPA must have promulgated regulations for all major emitters of the most dangerous chemical compounds, and maximum controls must be in place and functioning on those industries within an additional 3 years. It is not unreasonable to expect that these aggressive controls will reduce emissions by up to 90 percent or more from these industries. That is a tough program and, I might add, it will be an expensive program, both for the industries subject to the regulations and to the Federal and State governments that administer the program.

What industries are likely to be affected by these regulations? In the first round of regulation alone, the list is a who's-who of American industry, including, but by no means limited to: Chemical manufacturing; steel industry; industries that produce plastics and other consumer products; rubber manufacturers; producers of basic metals; pharmaceutical manufacturers; municipal sewage treatment plants; wood products manufacturers; oil and gas refining and distribution industries; cement plants; electroplating industries; municipal waste incinerators; pesticide producers; hospital sterilizing facilities; producers of foam products; food processors; electronics industry; air-conditioning coolant manufacturers; paint and adhesive formulators; dry cleaners; and equipment and engine degreasers. These industries and others that would be subject to this first round of regulations account for about 900 million pounds of the most potentially threatening air emissions.

After this first round of regulation, EPA would be required to move promptly through subsequent rounds of regulation, until all major sources of these emissions have regulations in place. Under our bill, this could not be longer than 10 years for even the least hazardous pollutants to be listed in the legislation. Of course, EPA is obligated to prioritize its efforts so that the compounds and sources that pose the most significant risks to the public are regulated sooner rather than later.

Mr. President, I do want to emphasize for other Senators that the introduction of this legislation is the beginning of the process that I sincerely hope will lead to enactment of improvements to the Clean Air Act. My message to my colleagues today remains the same as it was on this floor on February 28. We can and we must, for the well-being of our citizens, break the impasse that has prevented passage of amendments to the Clean Air Act for years. To accomplish that requires discussion and it requires compromise. It requires that we listen with an open mind to all of our constituents who have an interest in this legislation, and that we work to resolve rather than create differences. This legislation will be the starting point for discussions on air toxics and will be a vehicle in our efforts to establish a regulatory scheme that will ensure the quality of our air, the protection of the public health, and efficient yet flexible regulation that will allow American industry to meet the needs of our society and remain competitive in the global market.

As a member of the Environment and Public Works Committee, I believe we have a special obligation to work with all interested parties to achieve these goals. The Bush administration has committed itself to producing a comprehensive legislative proposal on clean air issues, which I understand we may expect to see by about the end of May. I look forward to reviewing that proposal carefully, and to working to find a common ground on the issues. I know that many other Senators have strong interests in the air toxics provisions and other legislative proposals that will be forthcoming, and I encourage them to work with the committee to address their concerns. Senators certainly have my personal commitment that I will work with them as a member of the committee to produce a final bill that deserves to become law.

I want to congratulate my colleagues on the Environment and Public Works Committee for the hard work they have put into helping to produce air toxics legislation. Without wishing to exclude any of my colleagues who have put their time and energy into this legislation, let me recognize in particular the important efforts of Senators LAUTENBERG and DURENBERGER, with whom I worked diligently on this bill. The efforts of our able subcommittee chairman, Senator BAUCUS, were likewise essential in producing a bill today. And, of course, the distinguished chairman of the full committee, Senator BURDICK, and our ranking member, Senator CHAFEE, were instrumental in guiding our work. I sincerely thank them and their staffs for their long hours in helping to shape our bill, and promise my continued involvement in further refining this legislation.

Mr. CHAFEE. Mr. President, today I join my colleagues, Senator DURENBERGER, Senator LAUTENBERG, and Senator BREAUX in introducing the Toxics Release Prevention Act of 1989.

This is the first of three bills the Committee on Environment and Public Works will be developing in connection with the reauthorization of the Clean Air Act.

Perhaps one of the biggest challenges we face today in cleaning up our environment is toxic waste. In the

past we have focused much of our attention on combating acid rain and unhealthy levels of ozone. But reports are showing the discharge of toxic air pollutants is much higher than previously estimated.

Recently EPA released a report showing that 2.7 billion pounds of toxic pollutants were released nationwide in 1987. These are incomplete estimates and do not even represent the actual total which may be two to five times greater. Little wonder that the Agency estimates toxic air pollutants cause 2,000 cancer cases a year.

My colleagues have ably outlined the provisions of the bill so I need not explain all the fine points of the proposal. However, I would like to touch on several key aspects of the legislation.

I think everyone realizes section 112 of the Clean Air Act—the section that currently regulates hazardous air pollutant emissions—is simply not working. This is because the law requires a pollutant-by-pollutant approach to regulation and requires that standards for each pollutant provide an ample margin of safety. The phrase "ample margin of safety" can be interpreted to mean zero exposure to carcinogens. Consequently, EPA has been reluctant to list and regulate pollutants where regulation could mean shutting down major segments of American industry. Instead, the Agency has spent years and years studying risks associated with a handful of pollutants. And it has regulated some sources of only seven substances.

This legislation deals with the situation by taking a two-pronged approach.

First, it requires a technology-based standard, maximum achievable control technology [MACT], for industries that emit 1 or more about 200 hazardous pollutants. This technology is to be established without time-consuming pollutant-by-pollutant risk assessments, thus doing away with a major impediment in getting these sources controlled. Determining what can be accomplished by available technology is much faster than determining the safe level of exposure to a carcinogen.

This approach has worked well under the Clean Water Act. Frustrated by trying to establish controls based on water quality, Congress rewrote the law to make it technology-based. The result has been installation of best controls on industries throughout the Nation that have, on average, reduced their effluent discharges by over 90 percent.

To assure that MACT technology standards in the bill are as at least as strong as those that EPA achieved under the Clean Water Act, we included language under subsection (d)(3) to make sure the degree of reduction in emissions for new sources is not less stringent than the most stringent emissions level achieved in practice by a source in the same category or subcategory. We also included language that finds a reduction of 90 percent is a benchmark for MACT for existing sources. However, I want to stress that the 90 percent figure is not a ceiling. EPA should set standards above the 90 percent whenever possible.

Under the MACT program, the EPA is to promulgate standards by prescribed deadlines. If these deadlines are missed, and thus the MACT controls are not established, permits are required under section (j)(3) to assure compliance with the objectives of the act. This means that EPA shall, in the absence of MACT standards, write permits for facilities which require the installation of maximum control technology know at the time. These best judgement permits, similar to those written under the Clean Water Act, may not get the facility to reduce by 90 percent or better, but will require the most stringent controls available at the time the permit is being written.

The second component of the control strategy deals with controlling hazardous air pollutants after the MACT controls have been installed. Since the MACT standards will not eliminate all the health and environmental effects that are of concern, EPA will have the authority to tighten up the standards to eliminate significant residual risks.

For carcinogens, no source will be allowed to expose people living nearest the source to a risk greater than one-in-ten thousand, and if technologically possible, one-in-a-million. Sources unable to meet the one-in-ten thousand will have to shutdown.

The Administrator may grant a 5-year extension for cases involving extraordinary economic hardship. I want to make it clear that this extension should be used by EPA in only very limited circumstances. We fully expect the administrator to shut down sources that are posing significant health threats to the people around them. Extraordinary economic hardship means that the facility will have to stop operating (as determined by the administrator); it doesn't necessarily mean only that workers will be laid off, that company profits may be diminished or plans for expansion cannot go forward.

Finally, the accident prevention section of the bill is aimed at preventing accidents like that which occurred at Bhopal, India.

Under the bill owners and operators of facilities handling extremely hazardous substances would have a general duty to operate a safe facility. This means that EPA, after inspection could require modifications in equipment or operational processes which are unsafe.

The bill lists a number of pollutants which are extremely hazardous and when released in a sudden event can cause death or serious injury. Facilities which handle large amounts of these extremely hazardous substances would be required to prepare hazard assessments—an engineering analysis to determine what kinds of accidents might occur and how the surrounding community would be affected if an accident did occur.

A five-member chemical safety board would investigate chemical accidents to determine their causes. The safety Board may make recommendations to EPA on regulations that would prevent or mitigate accidents and EPA has authority to issue such regulations.

Mr. President, this is good bill. Senators DURENBERGER, BREAUX, and LAUTENBERG are to be commended for their efforts in addressing this important and very complex issue. It will move us far ahead of where we are now in controlling hazardous air pollutants. As we move forward with this legislation in hearings and markup, I stand ready to work with my colleagues and other interested parties to see that legislation controlling hazardous air pollutants becomes law this Congress.

Mr. WARNER. Mr. President, I am pleased to join my colleagues today in cointroducing the Air Toxics Release and Accident Prevention Act of 1989, to control the routine and accidental releases of toxic chemicals into our air.

This legislation is the first of three clean air bills that the Committee on Environment and Public Works intends to consider this session. The committee has set an ambitious agenda to report three related clean air bills—one on ozone nonattainment, one on acid rain and one on air toxics.

I hope that the committee can report and will consider effective, responsible clean air legislation in all of these areas before the end of the year.

The problem of toxic air pollution is particularly important to the Commonwealth of Virginia. The recent results of the EPA's reports required by the title III, community right-to-know provisions of SARA on toxic air emissions is further evidence that the time to act is now.

The Congress must move forward with an effective, yet responsible proposal to control this complex problem. The committee's efforts are a promising first step in drafting legislation that will reduce in the very near future a significant portion of these unwarranted emissions.

I would like to emphasize that I believe that we are at the beginning of the legislative process regarding the problem of air toxics. It is important to get this process started and put leg-

islation on the table for the purposes of discussion.

I do have some reservations, however, about the committee's ambitious provisions contained in phase II. I welcome the thoughtful review by many of the expert witnesses who will appear before the committee during our hearing process and remain open to other views which may be just as effective as the approach we present today.

I also want to assure you that I plan to carefully consider the legislation soon to be forwarded by the administration. I trust that the committee will welcome the administration's legislative program to control the release of these chemicals and that the administration's bill will receive the active consideration of the committee during our hearings on this bill.

The toxic emissions reports support our efforts to reform section 112 of the Clean Air Act. The levels of toxic releases in Virginia are intolerable. The State of Virginia has performed an adequate job in gathering this information which shows we rank fifth in the Nation in the annual amount of these emissions. We must recognize, however, that this information is only as accurate as the information reported by the affected industries and the aggressiveness of the State in complying with SARA title III.

Finally, let me stress that few bills of this complexity and with the enormous social and economic ramifications are introduced in the form in which they are finally enacted. I believe that this will be the case with this bill. There are many questions to be answered. That is why we have hearings. I look forward to a full committee schedule of hearings so that all the interested parties will have the opportunity to comment.

I believe that the bill we are introducing today is a positive and constructive start. I am pleased to add my name to the list of cosponsors and I intend to work with my fellow committee members, the administration, and interested parties to report a meaningful, yet practical solution to the problem of air toxics.

Mr. LIEBERMAN. Mr. President, I rise to support the Air Toxics and Prevention Act of 1989, the first installment of one of the most important legislative initiatives of the year—the Clean Air Act.

Controlling the pollutants that enter our air is an imperative that is absolutely fundamental to the American people. "Our health, our ecosystem and our economy may depend on our success," says the Christian Science Monitor about clean air legislation.

Our health is at risk because, according to EPA statistics, about 140,000 Americans alive today will one day die of cancer caused by air toxics. This risk is particularly high for those who live in urban areas, where one excess cancer death for every 1,000 persons is not unusual.

In my State of Connecticut, the threat is very real, and the people are understandably very concerned. Right now we're rated third in the country in the amount of hazardous air pollutants released per square mile, according to EPA's recent report based on data collected from industries under the Superfund right to know law. Every year, 58 million pounds of chemicals are released into the environment by Connecticut companies, with almost half of that going into air and, potentially, into our lungs.

This legislation represents an important first step toward controlling the risk posed by hazardous air pollutants. As a first phase, industries will have to install the best available technology to control air emissions, with the EPA determining what "best available" means, not the industries themselves. It is estimated that this step alone can reduce up to 92 percent of the pollutants now going into the air.

Industries that still emit too much pollution even with state-of-the-art controls will be required to take additional steps on a continual basis to further restrict their emissions.

The legislation also encourages industries to act immediately to reduce their emissions by 90 percent. Such incentives will speed up the cleansing of our air while new technologies are introduced and implemented.

The second phase of the Air Toxics and Prevention Act of 1989 deals with accident prevention. That's a subject of greater interest in the wake of the *Exxon Valdez* disaster. We've learned an important lesson in this case: while we always hope for the best, we must be prepared for the worst. The legislation contemplates worst-case scenarios and proposes methods to deal with them promptly and effectively.

For we know all too well that what can go wrong, will go wrong. The *Exxon Valdez* caused an oilspill, but accidental spills of pollutants into the air are a constant danger, and a potentially more devastating one. During the years between 1980 and 1985, EPA statistics show that there were 6,928 accidents releasing 400 million pounds of toxic chemicals into the air, causing 138 deaths, 4,717 serious injuries, and the evacuation of 217,000 people. New York State, which keeps records of chemical accidents, reports two serious releases of chemicals into the environment every day.

Between 1983 and 1987, the accident toll in New York alone was 26 killed, 378 injured, and another 4,000 people evacuated from home or workplace.

Some argue that all economic development involves risks and costs. They say accidents cannot totally be prevented. A recent article in the New York Times questioned whether further efforts to reduce air toxics was worth the price. There is a price to cleaning up the air, to be sure, but there is also a price to leaving it dirty, and letting industrial accidents continue. One report, which documented 64 accidents over a 28-year period, estimated that, on average, each chemical release accident cost $30 million in damages. One event resulted in more than $100 million in property damages.

Then there is Bhopal. A catastrophic failure at that pesticide manufacturing plant released a cloud of a highly toxic chemical over a densely populated city. More than 2,850 people died, and 200,000 were injured. Just a few months later, after it-can't-happen-here assurances, 129 residents of Institute, WV, were hospitalized by a chemical release at another plant. A follow-up inspection at the plant showed 221 safety and health violations.

The American public is not prepared to accept the environmental—and human—cost of a Bhopal or an *Exxon Valdez*, and the American people want us to do something to make their world, their neighborhoods, safer places in which to live and work and raise families.

That is why this legislation will require industries to perform a hazard assessment. It would be nice to think that all companies have already done this, as a matter of good organization and good public policy. But think again. It just isn't happening in an unregulated market. The American people deserve to know what will happen to them if the worst happens. How many deaths and injuries could result?

If the chemical plant down the street had a major malfunction, what could possibly happen to the people who live in the houses nearby? What is the potential cost of living near a chemical plant, and what steps have been taken to prepare for the worst?

Perhaps that's why we weren't ready for something like the *Exxon Valdez* disaster. No one involved in the industry wanted to contemplate how bad such a large spill could be, and how much would be needed to deal with it, so those in charge simply said it couldn't happen. It's human nature.

Well, one of the things that the law must do is recognize the frailties of human nature and force people to take action that is in the public interest, even if it isn't in their private interest to do so.

The American people have a right to know what they are living with in their backyards.

The Air Toxics and Prevention Act goes a step beyond requiring companies to assess their potential impact on the environment and the health of their neighbors. The legislation pro-

vides for the creation of an independent safety board, to be known as the Chemical Safety and Hazards Investigation Board, to investigate all chemical accidents. This Board is modeled after the National Transportation Safety Board, an independent Federal agency which investigates accidents in the transportation industry. The NTSB has an impressive record of responsiveness to disasters, and its studies have yielded important information to help industries prevent catastrophes in the future. Untold numbers of people are alive today thanks to the work of this Board.

It is our hope that a Chemical Safety and Hazards Investigation Board can amass a similar record of accomplishment. It would be sent out to the scene of a chemical accident immediately after it happens to take charge of the cleanup, and to assess the reasons why it happened and make recommendations on how to prevent it from happening in the future. This information would be shared with communities and industries nationwide, so that the lessons of one accident can be easily applied to prevent others.

By addressing two real problems—the ongoing, routine release of chemicals in the air, and the unplanned, accidental release of chemicals—this legislation goes a long way toward securing a safer enviroment for ourselves and our children. It takes advantage of technological advances to control emissions, and it takes heed of historical disasters to plan for uncontrolled emissions.

I am pleased to cosponsor the legislation, and I look forward to its speedy passage, so that all Americans can begin to look forward to a cleaner world.

By Mr. GRASSLEY (for himself, Mr. INOUYE, Mr. MCCAIN, and Mr. BURDICK):

S. 817. A bill to amend title VII of the Social Security Act to authorize appropriations for the Office of Rural Health Policy and to establish a National Advisory Committee on Rural Health, and for other purposes; to the Committee on Finance.

NATIONAL ADVISORY COMMITTEE ON RURAL HEALTH

● Mr. GRASSLEY. Mr. President, today I am introducing a bill, on behalf of myself and Senators INOUYE, MCCAIN, and BURDICK, which, if it becomes law, will enhance the importance and viability of the Office of Rural Health, the National Advisory Committee on Rural Health, and the Rural Health Research Centers Program. The bill would not break new ground, in that the activities it authorizes are already underway. But the bill would provide greater certainty or viability for these activities, and it would indicate that the Congress is truly serious about addressing the problems involved in providing health care in rural communities.

SUMMARY

This bill would do six things: First, it would create an Office of the Deputy Assistant Secretary for Rural Health reporting to the Assistant Secretary for Health in the Department of Health and Human Services, and would make that official the Director of the Office of Rural Health. Second, it slightly refines the mission of the Office of Rural Health. Third, it authorizes $3 million for operation of the Office—the Office has been authorized, but not funds for it. Fourth, it authorizes $10 million for the Rural Health Research Centers Program—$1.5 million has been appropriated, but not authorized, for this program. Fifth, the bill would require that the Office of Rural Health manage the Interdisciplinary Training Grant Program in rural health initiated last year by Senators INOUYE and BURDICK and authorized by amendment to title VII of the Public Health Service Act. Sixth, this bill would establish by statute the National Advisory Committee on Rural Health and require it to report periodically to the Congress—the committee was administratively established by the Secretary of Health and Human Services.

BACKGROUND

In the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), Congress authorized creation of an Office of Rural Health, but did not authorize funds for it, and no funds were appropriated specifically for its operating costs. Congress apparently assumed that the parent Department of Health and Human Services would divert sufficient funds for the Office from within the resources Congress made available to the Department. As a practical matter, this has meant that staff, and such funds as have been necessary to run the Office, have come from the Health Resources and Services Administration.

Unfortunately, HRSA has been on a very tight budget, and has had difficulty in providing adequate funds to the Office. In fact, HRSA has taken some funds, for support of the administrative overhead the agency incurs in providing an administrative home for the Office, from the very minimally funded Rural Health Research Centers Program which the Office of Rural Health has been responsible for managing.

In addition to managing the Rural Health Research Centers Program, the Office has had also to provide staffing for the National Advisory Committee. This is a body to which the Congress is looking for guidance and advice on the very difficult health care problems facing our rural communities.

Furthermore, some of us have been concerned that the Office is not sufficiently highly placed in the Department structure to enable its currently very capable leadership to have the effect on policy development that the Congress wishes the Office to have when it authorized its creation.

In short, Congress has created an Office of Rural Health to spearhead Federal efforts to come to grips with the serious problems faced by our rural communities as they try to provide adequate health care for their citizens, but it hasn't provided it with the wherewithall to do the job we expected it to do.

DISCUSSION

Therefore, I am introducing this bill today to address some of those concerns. The creation of a Deputy Assistant Secretary for Rural Health, who will oversee the Office of Rural Health, should increase the importance of rural health among the Department's priorities. Some Members have told us that if the Secretary of Health and Human Services wants rural health to be a priority and the Office to be an important adviser on policy issues, they will be. And I agree with that sentiment in principle, with one caveat. And that is that in a bureaucratic setting every level of review has an opportunity to dilute policy recommendations from lower organizational levels. I also believe that, in a bureaucratic setting, formal organizational status can be an important asset in getting things done.

The mission of the Deputy Assistant Secretary and his Office of Rural Health would be slightly refined by stipulating that this individual would advise the Secretary "on programs and policies of the Department which affect the availability, accessibility, and quality of health care in rural areas." All other aspects of the mission of the Office are left as they were in the original authority. I think that this terminology will make it clear that the Office is to focus on the large questions that we are all wrestling with with respect to our national health care system, but with respect to rural communities.

The bill would authorize $3 million for the operating costs of the Office. If enacted, this authority should make it easier for the Appropriations Committees to provide funds directly to the Office. This, in turn, should enhance the clout of the Office within the Department, and vis-a-vis the Health Care Financing Administration, making it easier for it to achieve the mission Congress wishes it to achieve.

With respect to the Rural Health Research Centers Program, it seems to me that, if Congress is serious about creating a Rural Health Research Centers Program, it should do more

than fund it on an annual ad hoc basis through the appropriations process. The program administrators and the center directors need to have some guarantee that support will be available for the period of time needed to mount a research effort and carry it to fruition.

Furthermore, it is obvious that $1.5 million is not a large amount of money with which to run a research program from which the Congress wishes to generate knowledge which will help it make health policy. With the fiscal year 1988 money, the Office was able to support five research centers. On average, the centers received about $220,000 each. Welcome as this new program is, and as helpful as the research it sponsors will be, even modestly greater funds would help this program have the impact Congress wishes it to have. For these reasons, the bill I am introducing authorizes $10 million for each of the next 3 years for the research centers program.

The bill stipulates that the Office of Rural Health manage a rural health interdisciplinary training grant program authorized last year by an amendment to title VII of the Public Health Service Act. This is a program designed to get more health and allied health care workers to practice in rural communities through providing interdisciplinary training grants. The academic component of these training programs will be required to develop a relationship with a rural health care provider and to provide supervised training opportunities for students with those rural providers.

This program will benefit from management by staff of the Office of Rural Health, who are well versed in the personnel problems of rural communities. The Office will benefit by gaining additional insights into rural health care problems through the experience of managing this program.

Finally, providing legislative authority for the National Advisory Committee will enhance its importance within the Department, and send a signal to the Bush administration that the Congress is serious about making sure that we have adequate health care in rural communities. The problems our rural communities face in providing health care to their citizens are surely going to be with us for some time, and we need to make sure that this advisory committee is able to help the Congress deal with these problems over the long haul.●

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 818. A bill to authorize a study on methods to pay tribute to the late Senator Clinton P. Anderson of New Mexico for his significant contribution to the establishment of a national wilderness system; to the Committee on Energy and Natural Resources.

COMMEMORATING THE CONTRIBUTIONS OF CLINTON P. ANDERSON TO THE NATIONAL WILDERNESS SYSTEM

● Mr. BINGAMAN. Mr. President, I rise today to introduce legislation to authorize a study of how to best pay tribute to one of New Mexico's greatest citizens, the late Senator Clinton P. Anderson, for his contribution to the establishment of the national wilderness system.

Senator Anderson was the leader of the Conservation Congress, which earned its name by passing a sparking collection of conservation measures in 1963 and 1964. The jewel in that particular crown was the Wilderness Act, which Anderson shepherded through the 88th Congress. The act was signed by President Johnson, on September 3, 1964, with Senator Anderson at his side.

This year is the silver anniversary of the Wilderness Act and an appropriate time to commemorate Senator Anderson's role in that vital legislation. Senator Anderson had a distinguished career. He served four terms in the U.S. Senate, beginning in 1949. He was chairman of the Senate Interior Committee and the Joint Committee on Atomic Energy. Elected to three terms in the U.S. House of Representatives, he answered the call of President Harry S Truman and left the House to serve as Secretary of Agriculture.

But for all his fine accomplishments, his lasting legacy is wilderness. Today, thanks to Anderson and his colleagues, including Representative Wayne Aspinall of Colorado, Senator Hubert Humphrey of Minnesota, and Senator Frank Church of Idaho, there are 474 units in the National Wilderness Preservation System. Nearly 91 million acres are protected for future generations, a valuable natural history that will always serve America. Anderson's contribution cannot be overstated. "Without Clinton Anderson," said U.S. Forest Service Chief Richard McArdle, "there would have been no Wilderness Law."

Anderson wrote and spoke eloquently about wilderness. His words continue to inspire his colleagues and the public. Among my favorite quotations is a statement Senator Anderson wrote for American Forests magazine in 1963:

> There is a spiritual value to conservation and wilderness typifies this. Wilderness is a demonstration by our people that we can put aside a portion of this which we have as a tribute to the Maker and say—this we will leave as we found it.
>
> Wilderness is an anchor to windward. Knowing it is there, we can also know that we are still a rich nation, tending our resources as we should—not a people in despair searching every last nook and cranny of our land for a board of lumber, a barrel of oil, a blade of grass, or a tank of water.

We all owe a debt to Senator Anderson for helping protect these special, pristine lands that provide valuable solitude, critical watershed, wildlife habitat and a legacy of our natural history. As the act says so well, "A wilderness—is hereby recognized as an area where the Earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain."

Senator Anderson was influenced by the great New Mexico conservationist, Aldo Leopold, who played a role in this wilderness story. It was Leopold, as a U.S. Forest Service officer, who in 1924, helped establish the Nation's first administratively designated wilderness, the Gila Wilderness in the Gila National Forest in New Mexico. That wilderness served as my backdoor recreation area while I grew up in nearby Silver City. I have spent many rewarding hours backpacking in the Gila, as have countless other New Mexicans and visitors to my State. I am thankful to Senator Anderson for making permanent the wilderness designation. While the Gila and other areas were protected administratively before 1964, the act was necessary to ensure protection forever. Administrative designation of wilderness was subject to the whims of ever-changing administrations; the act is firm testimony to the national will to preserve pristine lands, regardless of who might be elected President.

We can help repay our debt to Senator Anderson by passing this bill to authorize a study by the Secretary of Agriculture to find the most appropriate method of acknowledging Senator Anderson's contribution. The study would include an evaluation of the feasibility of establishing a campground, monument, wilderness museum or other facility bearing Senator Anderson's name. Appropriately, the study focuses on the Gila National Forest where wilderness was first recognized as a valued resource.

The study would be completed within 6 months after funds are appropriated. My hope is that the Secretary will have a recommendation ready before September of this year, when the 25th anniversary of the act will be marked in a celebration in the Gila National Forest.

Senator Anderson was among the Senate's most distinguished Members and he helped enact one of our most noble laws. I urge my colleagues to support this bill.●

● Mr. DOMENICI. Mr. President, I rise today to join my colleague from New Mexico [Mr. BINGAMAN] in introducing a bill to authorize a study on methods to pay tribute to the late Senator Clinton P. Anderson of New Mexico for his significant contribution to the establishment of a national wilderness preservation system.

In 1972, I was elected to serve in this body when Senator Anderson retired after 24 years of service to New Mexico and the Nation. Senator Anderson left a large legislative legacy, including the Price-Anderson Act and the Wilderness Act of 1964.

This year marks the 25th anniversary of the Wilderness Act, which established the national wilderness preservation system. On February 28, I introduced Senate Joint Resolution 67 to commemorate the 25th anniversary of the Wilderness Act of 1964 by designating the week of September 3-9 as National Wilderness Week. Senate Joint Resolution 67 currently has 67 cosponsors and I am looking forward to its approval by the Senate in the coming months.

The Wilderness Act of 1964 was signed into law by President Johnson on September 3, 1964, thus culminating over 16 years of congressional study and debate. Senator Anderson played a major role in shaping and resolving this debate.

The bill that was to become the Wilderness Act of 1964 was introduced by Senator Anderson, who was the chairman of the Senate Interior Committee at that time, at the outset of the 88th Congress.

In May 1962, Stewart Udall, Secretary of the Interior under President Kennedy, stated, "When Clinton Anderson of New Mexico became chairman of the Interior Committee in 1961, the wilderness bill had a tenacious advocate who would not be denied." Mr. Udall's assessment has not diminished over the years. Recently, he commented that based on his knowledge of the history of wilderness legislation, Senator Anderson was the hero of the passage of the Wilderness Act.

By 1956 Senator Anderson was in his second term as a Senator. That particular year three major national conservation proposals were introduced. One was the wilderness bill introduced for the first time by Senator Hubert Humphrey of Minnesota. The other two proposals were the outdoor resources recreation review and the multiple use sustained yield policy.

Senator Anderson was convinced that it was paramount to deal with the issues associated with these latter two proposals before tackling the wilderness issue through legislation. He directed his legislative skills accordingly. In the final analysis he was instrumental in the passage and success of each of these proposals—first the outdoor review, then the multiple-use principle, and finally wilderness preservation.

I consider the tribute sought in the bill introduced today by Senator BINGAMAN and I to be a fitting tribute to Senator Anderson and his work on the Wilderness Act of 1964, which established the National Wilderness Preservation System, especially as we mark the 25th anniversary of the Wilderness Act. This tribute is consistent with Senate Joint Resolution 67—to commemorate the 25th anniversary of the Wilderness Act of 1964—which I introduced earlier this year.

I am pleased to cosponsor this measure and I congratulate Senator BINGAMAN for his work on it.●

By Mr. EXON (for himself, Mr. DANFORTH, Mr. KASTEN, and Mr. ADAMS):

S. 819. A bill to strengthen the enforcement of motor carrier safety laws, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MOTOR CARRIER SAFETY ACT

● Mr. EXON. Mr. President, I am pleased today to introduce the Motor Carrier Safety Act of 1989. This legislation continues an effort that has been underway for the last several Congresses to improve motor carrier safety.

In 1982, as part of the Surface Transportation Assistance Act, Congress authorized creation of the Motor Carrier Safety Assistance Program [MCSAP] which is widely viewed as a highly successful safety program. MCSAP provides Federal funding to assist States in conducting roadside inspections of commercial trucks and buses. Approximately 1.3 million roadside inspections were conducted in 1988 as a result of MCSAP, compared with 36,000 in 1983, prior to initiation of the program.

In 1984, in the Motor Carrier Safety Act, Congress mandated that the Department of Transportation issue standards to require more frequent equipment inspections and required that DOT review the safety programs of nearly 185,000 unrated carriers, a process which is continuing. We further established requirements for the uniform single State licensing of commercial drivers, set stiff penalties for individuals who operate trucks or buses under the influence of alcohol or drugs, and significantly increased funding for MCSAP as part of the Commercial Motor Vehicle Safety Act of 1986.

Last year, through adoption of the Truck and Bus Safety and Regulatory Reform Act of 1988, we statutorily eliminated an administrative exemption which had previously allowed commercial trucks and buses to operate in certain metropolitan areas—known as commercial zones—without being subject to the Federal Motor Carrier Safety Regulations, and developed study and report requirements to improve driver compliance with hours of service requirements, as well as looking to options to improve truck braking performance.

The progress begun with each of these safety initiatives should continue. The legislation that is being introduced today is intended to build on that progress.

I am delighted to work with Senator DANFORTH, who joins me as a sponsor of this important safety legislation, as well as with Senators KASTEN and ADAMS, who are original cosponsors. This bill contains a number of important safety-related provisions. Among these are provisions which will call upon DOT to make publicly available the names of all motor carriers that receive an unsatisfactory safety rating from the Federal Highway Administration. Currently, this information is difficult, at best, for anyone to obtain. With this new provision he will enable the marketplace to encourage the use of safety-conscious carriers by identifying those carriers with unsatisfactory ratings. In addition, this provision will prohibit carriers with unsatisfactory rating from transporting hazardous materials and operating passenger buses.

Another provision in the Motor Carriers Safety Act of 1989 would require DOT to develop operational guidelines for suspending the operation of any motor carriers which pose an imminent hazard to safety. The bill also seeks to discourage drug trafficking at truck stops and drug usage by truck and bus drivers by doubling the Federal penalty levels for distributing drugs at truck stops. This builds on the drug-free school zones provision in last year's omnibus anti-drug bill and recognizes that areas frequented by those involved in transportation should be similarly free from drugs.

Some of the other issues addressed in this bill include a rulemaking on whether brake improvements are needed; a random MCSAP reinspection program for vehicles placed out of service for previous infractions; and a DOT procedure requiring Federal Highway Administration [FHWA] inspectors to initiate an enforcement action against any motor carrier found guilty of a serious safety violation. The need for many of the provisions contained in this bill is well documented in congressionally requested motor carrier studies conducted over the last 2 years by the Office of Technology Assessment and the Congressional Research Service.

An issue not included in the bill at this time, but one that will be addressed over the next few months, is driver training standards for operators of commercial motor vehicles. We hope to utilize the training approach developed by the FHWA in 1984, as well as obtain input from the States, representatives of motor carriers, operators of commercial motor vehicles, commercial motor vehicles safety experts and providers of training.

I am committed to working with Senators DANFORTH, KASTEN, ADAMS

and others to ensure passage of this legislation.●

● Mr. DANFORTH. Mr. President, over the past decade Congress has passed a variety of laws to ensure the safe operation of heavy trucks and buses on our Nation's highways. Two years ago, the President signed into law the Commercial Motor Vehicle Safety Act of 1986. That legislation stops drivers from spreading their bad driving records over numerous licenses. It also eliminates the 20 State practice of giving a commercial license to applicants who may have taken a driving test in nothing more than a subcompact car.

Most recently, I sponsored the Truck and Bus Safety and Regulatory Reform Act of 1988—a bill that became law as an amendment to the Omnibus Drug Initiative Act of 1988. This legislation eliminates a loophole allowing heavy trucks and buses to operate within vast urban commercial zones without meeting critical Federal safety regulations. The act also requires a Department of Transportation [DOT] rulemaking on driver compliance with the hours-of-service regulations, which help to prevent driver fatigue.

Although these laws represent great progress, we have a long way to go. In 1987, medium and heavy truck and bus accidents accounted for almost 6,000 deaths in this country. Eighty percent of those killed were not truck drivers, but the occupants of passenger cars. In addition to the immeasurable tragedy of lost lives, truck and bus accidents have a very tangible economic cost. In 1985, DOT received reports on 39,273 motor carrier accidents that resulted in $394 million in property damage. A single truck accident on Washington, DC's beltway in September 1988, required over half a million dollars to clean up.

Mr. President, the majority of motor carriers and commercial drivers take their safety responsibilities seriously. This bill focuses on the few operators who disregard safety.

SAFETY RATING SYSTEM

The DOT currently operates a system to rate the safety fitness of motor carriers. Each motor carrier receives a rating of satisfactory, conditional, or unsatisfactory. A motor carrier must have a number of serious safety violations before earning an unsatisfatory rating. And yet, these carriers are free to continue operating. They are even allowed to operate trucks carrying hazardous materials or passenger buses. Because unsatisfactory carriers are most likely to be involved in an accident, our bill bans all carriers with an unsatisfactory rating from transporting hazardous materials or passengers on our Nation's highways. In addition, this legislation requires DOT to make available to the public, and to periodically update, a list of all carriers who receive an "unsatisfactory" rating.

DRUG-FREE TRUCK STOPS

Mr. President, drugs are everywhere in our society today. The trucking industy is no exception. For example, in January 1988, the California attorney general's office released the results of a 6-month sting operation in which 130 people were arrested for selling cocaine, speed, and other drugs to truck drivers at truck stops. Undercover officers reported that the drug trade was so active, in many instances by the time they could reach a drug pusher advertising drugs over his CB radio, the sale was already completed. Such drug sales at truck stops and over CB radios are common.

Drug use by truck and bus drivers is not a victimless crime. Last May, a truck driver rammed more than two dozen vehicles on an L.A. freeway. Miraculously, he caused only minor injuries. Police found drug paraphernalia, a partly smoked marijuana cigarette, and other narcotics in his cab. In October, near Fort Hancock, TX, a truck driver forced several motorists off the highway, killing a woman. After shooting a police officer, he tried to run him down with his tractor-trailer. The police on the scene said the driver was on drugs. There was a similar tragedy over the Christmas holidays. The driver of a tractor-trailer rig went on an 80-mile long rampage down Interstate 10 and through rush hour traffic in San Antonio. During this rampage, the huge truck crashed into more than 20 other vehicles and seriously injured two people. When the driver was arrested, he did not seem to know he had done anything wrong. Police later found cocaine in the cab of the truck and filed drug charges against the driver.

We must stop these tragedies. Since truck stops are the most common places for drug sales to commercial drivers, our bill doubles the penalty level for persons convicted of distributing drugs within 1,000 feet of a truck stop. This provision is modeled after a provision in the Omnibus Drug Initiative Act of 1988, which establishes drug-free zones around our Nation's schools. Drug-free school zones protect our children from drug dealers by doubling penalties for pushers who sell drugs near schools or playgrounds. By establishing similar zones around our Nation's truck stops, we can reduce the supply of drugs to truck drivers.

IMPROVING BRAKES

This legislation contains a number of other provisions that will enable trucks and buses to operate more safely. Our bill requires DOT to conduct a rulemaking on whether brake performance improvements, such as antilock braking systems and better brake compatibility, are needed. In March 1987, DOT completed a congressionally-ordered study, which determined that poor brake performance contributed to one-third of all truck accidents. Since that time, both the National Transportation Safety Board [NTSB] and the Office of Technology Assessment [OTA] have concluded truck safety studies that find brake performance a leading factor in truck accidents.

In the mid-1970's, DOT wrote a rule requiring antilock brakes which were primitive in design. Because these brakes had mechanical problems, the DOT rule was struck down by the courts. Over the past decade, a new generation of successful antilock brakes has emerged. These brakes are widely used in Europe, and will be required on all European Economic Community [EEC] registered commercial vehicles in 1991. Moreover, there is already a large stopping distance differential between cars and large trucks and buses, which is being exacerbated because many cars are being equipped with antilock brakes. With technological advances in antilock brakes and the documented safety problem posed by current truck braking systems, the time has come for a DOT rulemaking on whether to require brake performance improvements.

OTHER PROVISIONS

Finally, this measure requires DOT to create a random reinspection system for trucks and buses placed out-of-service for safety infractions, to ensure that repairs are actually performed; to develop guidelines for suspending any motor carrier operation that poses an imminent safety hazard; to determine how visibility improvements can prevent trucking accidents; and to set the pay of senior Federal Highway Administration [FHWA] inspectors at a level closer to that of Federal Railroad Administration [FRA] and Federal Aviation Administration [FAA] inspectors.

CONCLUSION

I urge all my colleagues to support this important truck and bus safety legislation.●

● Mr. ADAMS. Mr. President, I am pleased to join Senator EXON, Senator DANFORTH, and Senator KASTEN in sponsoring legislation to improve the safety of trucks operating in our Nation's roads. This bill continues the job that we began last year when we passed the Truck and Bus Safety Act of 1988. I do not say that this bill finishes the job of improving truck safety, because we can never be satisfied with our effort when more than 5,000 people die every year in truck accidents.

This bill will improve truck safety in several ways.

First, it would prevent unsafe carriers from transporting hazardous materials or carrying passengers. Every

year, the Department of Transportation conducts safety audits of thousands of trucking firms, giving them a satisfactory, conditional, or unsatisfactory safety rating. While this is a worthwhile effort, the problem is that the Government allows the firms with unsatisfactory safety ratings to continue to drive. Under our bill, these unsafe firms would be barred from transporting hazardous materials or operating passenger buses.

Second, this bill includes a provision that we were unable to enact last year calling for antilock brakes on trucks. In the 1988 truck safety bill, we were only able to require continued review of these systems by DOT and a report to Congress. This year, we will not be satisfied with simply another study. Antilock brakes work, and it is time that we required the best equipment on our trucks.

Third, this bill steps up our system of inspecting trucks on the road and removing those with dangerous defects. In Washington State alone, over half of the 23,951 trucks inspected on the highways in 1987 were cited for safety violations because of faulty or defective equipment. We need to make sure that when these trucks are cited for safety violations, they are fixed before they go back on the road. This bill would require reinspections on a random basis for trucks placed out of service and a system of accountability for correcting safety violations.

This bill is one more step in reducing the frightful carnage on our highways. As a U.S. Senator and a former Secretary of Transportation, I will continue to urge through and ongoing investigation by the Congress and the administration into the causes of highway accidents, and ways to prevent them.●

By Mr. BOSCHWITZ:

S. 820. A bill to amend section 1503 of title 18, United States Code, relating to protecting officers and jurors from threats or force, to extend protections against threats to jurors after they have been discharged of their duties; to the Committee on the Judiciary.

JUROR PROTECTION ACT

● Mr. BOSCHWITZ. Mr. President, I rise today to introduce legislation that I believe will aid in the administration of justice in our Federal courts.

The Juror Protection Act of 1989 will extend statutory protections against threats to jurors after they have been discharged of their duties. Current law protects jurors from threats, acts of violence, and other forms of harassment before and during a trial for which they are sitting, but unfortunately the same protections are not afforded jurors after they have completed their service.

The laws we have on the books to protect officers of the court from harassment before and during a trial are there not only to protect them, but also to ensure that they can approach their task without fear of reprisal. It only stands to reason that jurors may face similar threats after they have handed down a decision. In an especially controversial case, it may be very difficult for some jurors to approach their duty in a clear-thinking, objective manner.

The purpose of this measure is to provide jurors the protection and peace of mind they deserve and need after they have completed their service to the court. I ask that my colleagues join me in supporting a bill that will help ensure that justice is served.●

By Mr. HELMS (for himself, Mr. DECONCINI, Mr. GRASSLEY, Mr. HUMPHREY, Mr. PRESSLER, Mr. THURMOND, and Mr. COATS):

S. 821. A bill to abolish the Commission on Executive, Legislative, and Judicial Salaries, establish a procedure for adjusting pay rates of certain Federal officers, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL PAY ACCOUNTABILITY ACT

Mr. HELMS. Mr. President, when the Senate voted in February to disapprove the recommendations of the Quadrennial Commission, I trust that some valuable lessons were learned—one of the most important being that the American people will no longer tolerate the existing arbitrary system under which pay levels are set for high-level executive, judicial, and legislative branch personnel.

Today, I am offering the Federal Pay Accountability Act of 1989, and I am honored that Senators DECONCINI, GRASSLEY, HUMPHREY, PRESSLER, THURMOND, and COATS are cosponsoring the measure. We have drafted this legislation to address the concerns raised by citizens all over the country in response to the Quadrennial Commission proposal that precipitated a justified roar of protest all over America.

Mr. President, I'm also pleased to announce that the bill we are offering today has been endorsed by both the National Taxpayers Union and by Congress Watch. I am grateful to both organizations for the assistance they have given us in developing this legislation.

Mr. President, the outcry from Americans was not merely in response to the size of the pay increase proposed by the Quadrennial Commission. Citizens were clearly upset—understandably so—about the manner in which the proposals were made, particularly the fact that the proposed pay increases would have gone into effect automatically if both Houses of Congress had not voted to disapprove them. Such a system is a blatant abdication of responsibility by Congress and an affront to the American people. They had every reason to protest.

Mr. President, my distinguished colleagues and I are introducing this bill today to change in a significant way the system for determining pay increases for all Federal personnel who come under the purview of the Quadrennial Commission.

I would emphasize that this legislation makes no recommendations or proposals as to pay levels or pay increases. Many of us will differ, I'm sure, on these questions. We are simply attempting to establish a simple, straightforward system under which these decisions can be made.

Our bill would: First, abolish the Quadrennial Commission; second, repeal the automatic cost-of-living adjustment for Members of Congress; third, require the appropriate committee in the Senate and in the House to consider the pay levels of the personnel now under the purview of the Quadrennial Commission and report original legislation authorizing recommended increases; fourth, require a rollcall vote on that legislation; and fifth, amend the permanent appropriation for Members' pay so that no pay increase for Members of Congress can take effect until the first pay period of the following Congress.

Mr. President, it is clear that the Quadrennial Commission is unlikely to be further useful. I'm sure that the members of the Commission were well-intentioned in making their recommendations for approximately a 50-percent pay increase for Members of Congress and other high-level judiciary, and executive branch officials. However, they failed to consider the predictable reaction of the average taxpayer who has to foot the bill, yet who makes nowhere near as much as any of the officials who would have received the pay increase.

Furthermore, it appears unlikely that the Commission will be able to consider that factor in any future recommendations. Without that ability, the Commission might continue to make well-intentioned but unrealistic proposals. Thus, our legislation would repeal section 225 of the Federal Salary Act of 1967, the provision that created the Quadrennial Commission in the first place.

Mr. President, some Members of Congress expressed their reluctance to vote on the recent pay raise proposal out of concern that it would be a conflict of interest for them to vote on their own pay. Our bill addresses that concern for our colleagues in the House and, to the extent possible, our colleagues in the Senate, by amending the permanent appropriation for Members' pay so that no pay increase would go into effect until the first pay

period of the Congress following that in which the pay raise is authorized.

If the people back home don't feel their Representative deserves a pay increase for which he or she voted, they will have an opportunity to express themselves at the ballot box before the Representative ever receives the pay increase. This will be true also for one-third of the Members of the Senate, and the rest will have plenty of time to hear from their constituents, through many and various channels, before any pay raise takes effect.

Mr. President, the most important provision of our legislation will restore accountability for our decisions on the issue of compensation. I believe this is essential if the American people are to retain any faith in this institution.

Our bill would accomplish this in two ways:

First, it would repeal section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31). That is a provision that provides an automatic pay adjustment for Members of Congress whenever the pay rates for the statutory pay systems are adjusted by the President pursuant to 5 U.S.C. 5305. I believe it is important to remove all provisions which provide automatic pay increases for Members of Congress.

Second, the legislation would require the committee with appropriate jurisdiction in the Senate and in the House to review the pay levels of the personnel who now come under the purview of the Quadrennial Commission. After making the review, the committee in each body would report legislation containing any recommended pay increases or any other proposals regarding appropriate pay levels. The legislation would then be considered by the full House or Senate, and a rollcall vote would be required on final passage. A rollcall vote would also be required on any conference report authorizing pay increases.

If any pay increases are approved, they would be appropriated through the normal appropriations process, except, as I mentioned previously, for Members of Congress. Members would still be paid through the permanent appropriation provision that was enacted in 1981; however, the pay increase would not take effect until the first pay period of the next Congress.

Mr. President, we have left one issue to be determined during the markup process. The legislation only provides that the "congressional committee with appropriate jurisdiction" will review the pay levels of those people now under the purview of the Quadrennial Commission. It is our expectation that when the Government Affairs Committee holds hearings on our bill, we would determine then which committee in the Senate and the House should be designated to consider the pay levels and report authorizing legislation.

I commend my colleagues who have joined me in introducing this legislation. I urge the Government Affairs Committee to hold hearings promptly so that the Senate can act on this proposal expeditiously.

● Mr. DECONCINI. Mr. President, I am proud today to join Senator HELMS and others in sponsoring the Federal Pay Accountability Act of 1989. The legislation would hold Congress accountable for determining its future pay-raises. It would dissolve the outdated Quadrennial Commission. It would require rollcall votes to approve a pay raise. This legislation is truly a step in the right direction.

This bill has been drafted to address the concerns raised by citizens nationwide about the method by which Congress and the other branches of Government receive a raise. In my State of Arizona, the negative reaction to the pay raise last January was overwhelming.

Citizens were clearly upset with the manner in which the proposals were made. The fact that the pay increases proposed by President Reagan would have gone into effect automatically unless both the House and the Senate had not voted to disapprove them is an example of an irresponsible lack of accountability. The current system is clearly an abdication of responsibility by Congress. Fortunately, the voice of the people was heard and the raise was resoundingly rejected.

Our bill would abolish the Quadrennial Commission, repeal the automatic cost-of-living adjustment for Members of Congress, and require Congress to consider pay rates for all three branches of the Government and report original legislation recommending any necessary increases. The bill would also require a rollcall vote on such legislation.

Finally, Mr. President, under the new proposal, any pay increase approved would not take effect until after the next election. This will provide the ultimate employer—the American people—the opportunity to ratify any approved pay raise at the ballot box. To me that is the most important aspect of our proposal—being responsible to our constituents in the truest sense.

I commend my colleagues who have helped produce this legislation, and I urge the Governmental Affairs Committee to promptly hold hearings on this legislation.●

By Mr. MOYNIHAN:

S. 822. A bill to prohibit the importation into the United States of certain articles originating in Burma; to the Committee on Finance.

TRADE SANCTIONS AGAINST BURMA

● Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that will ban the importation of teak wood and fish products originating in Burma. I believe such a ban is necessary to prevent the further financial subsidization of the present Burmese regime.

I also note with pleasure Thursday's decision by President Bush to indefinitely suspend GSP trade benefits for Burma due to its failure to protect internationally recognized workers' rights. The bill I am introducing today would have the same effect as the President's commendable decision: To further the economic isolation of the Burmese military government until such time as it commits itself to the respect for human rights, political liberalization and national reconciliation.

On August 11, 1988, the Senate unanimously adopted Senate Resolution 464 which condemned the brutality of the present regime and called for restoration of democracy in that nation. Our resolution was adopted in the midst of widespread popular demonstrations calling for democracy. It was only adopted in the aftermath of a brutal spree of murder of innocent, unarmed, peaceful demonstrators by the Burmese Armed Forces. Although tentative steps were taken to reform Burma's political system after the Senate spoke, on September 19, the Burmese Armed Forces undertook a massive crackdown, killing thousands and seizing full control of the political apparatus in Burma.

Burma's terrible human rights record also made it the subject of a resolution adopted by the U.N. Human Rights Commission on March 8. I am pleased that our delegation, despite the opposition of some of Burma's current economic partners, was successful in its efforts to bring the case of Burma to world attention.

In response to the September suppression of dissent by the Burmese military, the United States suspended aid to Burma. Japan and the European Community, Burma's largest aid donors, followed. Although Japan has recently resumed some assistance, Burma remains starved for cash. Burma's foreign debt stands at $5.3 billion. Its debt-servicing ratio is expected to approach 100 percent this year. After 26 years of the "Burmese Way to Socialism" the economy is in shambles. Rice production has been stifled by unrealistic production quotas and low government prices, and annual rice exports have fallen from about 2 million tons in the 1950's and 1960's to 20,000 tons in 1988. Legal trade has for many years been supplanted by black market cross-border trading in consumer goods, precious stones, and teak. According to the Institute of Asian Studies in Bangkok, two-thirds of all goods imported into Burma in 1985 were smuggled from Thailand. The annual value of smug-

gled trade is estimated to be $3 billion, or 40 percent of GNP.

To stay alive, the Burmese military junta is cynically selling away what Burma has left: Teakwood and fish. And the cynicism of the Burmese regime has, regrettably, found ready partners amongst Burma's neighbors.

For example, a large number of Thai companies, including B&F, Thai Sawat, Chaophyra Irrawaddy, Santo Forestry, Sirin Technology, Thaiphong Sawmill, Muang Pana, Union Par, Patumthani Sawmill, Thai Teakwood Veneer, Patumthani Tangkakorn, Mea Mery Forest Industry, Maesod Forestry, Zilar International Trading, Silom Complex, and Thip Tharn Thong have, with the cooperation of the Thai Government, signed concessions to cut millions of tons of logs inside Burma. These logging agreements followed Thai army chief Chaovalit Yongchaiyut's visit to Rangoon on December 14, 1988. They also coincided with the Thai Government's decision to forcibly repatriate dissident Burmese students who had sought refuge on Thai soil. More recently, the Thai Agriculture Minister, Sanan Kachornprasat, also reportedly signed agreements giving Burmese teak concessions to two Thai state enterprises, the Forestry Industry Organization and the Thai Plywood Company. Firms from other countries, including Hong Kong, Japan, Singapore, and Europe have reportedly participated in the teak concession bonanza in Burma.

In addition, at least 15 fishing concessions worth over $17 million have gone to Japanese, Thai, Malaysian, Singaporean, Australian, and South Korean fishing companies. These include the Japanese firms Nippon Suisan, Taiyo-Gyogyo, and Daimaru, the Thai firms Supachoke Fisheries, Narongchai Canning, Sirichai Fisheries, Tip Tharn Thong, Mars & Co., and Atlantis Corp., the Korean firms Dongwon Industries and Woushin Sanghap, the Hong Kong firm Adnes Enterprises, the Malaysian firm Sophia Industries, the Singaporean firm Hsing Chaio, and the Australian firms Seafood Traders of Australia, Kailis and France, Australian Marine Export, and Semarine.

The money from these concessions will not help ordinary Burmese. Already, 100 Burmese fishing boats are reportedly lying idle on the Andaman Sea coast because fishing rights have been sold to foreign interests. Rather, the profits will prolong the life of the current government and equip the Burmese military for yet more violence. Indeed, Professor Joseph Silverstein of Rutgers University has estimated that 50 percent of the Burmese Government budget is devoted to military expenditures. Even the very act of felling trees has a military value. For the jungle trails cut by the loggers will provide the Burmese army access to isolated jungle strongholds of the ethnic minority resistance.

Further, the Burmese military has undertaken an effort to invite foreign investors into Burma. Still with an eye to earn the money to maintain their power—not for the purpose of developing the nation. And the previous record of foreign economic investment in Burma is encouraging. Until this year, the only joint venture the Burmese Government permitted with a foreign company was a small arms and ammunition plant run by the West German firm Fritz Werner. And despite Germany's suspension of aid to the Burmese regime, this plant still efficiently produces the weapons of death used by the Burmese military. It is long past the time when the German Government should have taken actions to stop all such assistance.

The massive Burmese logging concessions are all the more troublesome in light of the need to control deforestation. In 1900 there were 2.49 million square kilometers of virgin forest in Southeast Asia, outside of Papua New Guinea. Today only 602,000 square kilometers remain. In a recent report, the Bangkok-based Economic and Social Commission for Asia and the Pacific concluded that "floods, mudslides, even earthquakes and droughts can be directly related to deforestation."

Last October, deforestation in Thailand caused floods that claimed the lives of at least 350 people. In January, the Thai Government banned all logging concessions within its borders. Whereupon Thai logging companies moved their operations across the border to Burma. Burma reportedly has 80 percent of the world's remaining teak reserves, but the Burmese military has no interest in protecting this resource or its environment—the goal is the money to remain in power. U Nu, Burma's last freely elected leader, says of this activity: "Our forests will disappear." Similarly, the Bangkok-based newspaper, The Nation, has expressed reservations about the environmental consciousness of Thailand's logging companies now racing into Burma: "Given their questionable record in Thailand, there appears little hope that these firms will adhere to the rules of selective cutting in our neighboring countries. The massive forest depletion in those countries will not only take their toll on those societies, but will also affect Thailand's already vulnerable environment in the long run."

It should be noted that America has had nothing but admiration for Thailand's ever-increasing commitment to democracy. Our hope that Burma might some day enjoy democracy is strengthened by our knowledge that Thailand has already achieved it. Democracy has made Thailand prosperous and prosperity has made it powerful. I trust that it will use its power to support, rather than hinder, democratic forces in Southeast Asia.

In the meantime, the United States must do what it can to keep hard currency, and the guns that hard currency buys, from the Burmese military. I, therefore, urge my colleagues to support the swift passage of this legislation to ban the importation of teak and fish products from Burma. The United States cannot reward the Burmese military by purchasing the resources it is stealing from its own people.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD. Also that a recent article from the Bangkok Nation entitled "Saw Maung Sells Burma To Survive" be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 822

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION.

After the date of enactment of this Act—

(1) teak that is cut in Burma,

(2) any product that contains teak cut in Burma,

(3) any fish or other aquatic animal taken from the territorial waters of Burma, and

(4) any product containing any fish or other aquatic animal taken from the territorial waters of Burma,

may not be imported into the United States or into any territory or possession of the United States.

SEC. 2. ENFORCEMENT.

(a) IN GENERAL.—The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the provisions of this Act.

(b) CERTIFICATIONS.—The regulations prescribed under subsection (a) shall—

(1) require any importer of teak, or of any product containing teak, to submit to the Secretary of the Treasury at the time of the importation of such teak or product into the United States, or into any territory or possession of the United States, a statement certifying the origin of the teak, and

(2) require any importer of—

(A) fish or other aquatic animals, or

(B) any product containing any fish or other aquatic animal,

that is imported from, or has passed through, Burma (or any foreign country whose nationals are allowed to fish in the territorial waters of Burma by a treaty or agreement between Burma and the foreign country or such nationals) to submit to the Secretary of the Treasury at the time of the importation of such fish, aquatic animal, or product into the United States, or into any territory or possession of the United States, a statement certifying the territorial waters from which the fish or aquatic animal was taken.

SAW MAUNG SELLS BURMA TO SURVIVE

(By Tom Heneghan)

Burma, one of the world's poorest countries, has lost most of the crutches keeping its crippled economy going and is now selling the few left.

Rice and teak exports, tourism, foreign aid, industrial output—all slumped to zero by last September after months of anti-government unrest and a bloody army takeover.

Prices have soared so high that many wage-earners cannot afford enough to feed their families. Many middle-class households now run black market shops to earn extra money.

Desperate for hard cash to pay for imports, the army has been selling off timber and fisheries concessions to foreign companies at a rate that has diplomats and businessmen here talking about "the rape and pillage of Burma's resources."

"It was hard to see how things could have got much worse, but they have," said one Western diplomat. "People are absolutely stone broke and prices have still gone up."

Last year's unrest hit the country not long after Rangoon's secretive leaders admitted that a quarter-century along the "Burmese road to socialism" had led the country into a dead-end. Per capita annual income was only $264.

Classified by the United Nations in 1987 as one of the "least-developed countries," Burma was hoping Western donors would write off much of its $4 billion foreign debt.

Once the world's largest rice exporter, it also loosened controls on trade in grains that year to boost output.

This clumsy liberalization backfired, sparking student protests that grew into a popular uprising that toppled three leaders and seemed set to force a return to democracy.

When the army crushed the democracy movement by force last September, foreign donors stopped all aid programmes—worth about $500 million a year—and cancelled any plans to write off earlier debts.

Much of the aid, mainly from Japan, West Germany and the United States, used to pay for needed imports, Western diplomats said.

The overall outlook for trade is bleak, they said, but the rock-bottom state of the economy and the lack of statistics since the unrest made it hard to say just how bad it was.

Rice exports, which stopped in July, restarted sluggishly after the state doubled procurement prices and the army began to coerce supplies from farmers.

They will probably only hit 80,000 tonnes in the fiscal year ending on March 31, compared with 624,300 tonnes the previous year, and could reach only half the 600,000 tonnes goal for 1989/90, the diplomats said.

"They (the government) are buying for twice the old state price, but still only about a third of the black market price," one envoy said. "It is losing money."

The army has also sold off concessions to foreign timber and fishing companies so quickly and cheaply that opposition politicians are warning about lasting environmental damage.

"We have had forestry conservation since the British were here but there is no provision for it," said U Nu, Burma's last freely-elected leader. "Our forests will disappear. There will be no more fish in our waters."

Diplomats said Rangoon had sold 17 concessions to Thai timber companies eager to start logging in the thick forests of teak and other hardwoods along the Thai-Burmese border.

The government has also sold off nine concessions to Thai, Malaysian, Singaporean and South Korean fishing companies to tap Burma's rich maritime resources in the Andaman Sea.

"There will be no policing so they can carry off as much as they want," a diplomat said. "This will end up clearing out Burmese waters in three or four years."

The average Burmese, earning monthly wages worth only $15 at black market rates, has been forced to tighten his already small belt and find ever more ingenious ways to tap the black market.

Rice prices—the poor man's inflation index—are five times higher than before the unrest. Cooking oil costs three times as much.

Fares on Rangoon's 1940s Chevrolet buses can be up to 10 times higher because fuel is scarce and expensive.

Official petrol prices have jumped from 3.50 kyats (0.55 cents) a gallon to 16 kyats ($2.50) but the rate on the black market, the only place one is sure to find supplies, is 85 kyats ($13.50).

The government has responded by opening shops selling subsidized goods. Long queues appear there before dawn and passing groups of begging monks, a traditional sign of Buddhist ascetism, can look better off than the shoppers.

There are fewer newspapers than before—only two are allowed—but more hawkers selling them because they charge black market rates of double the normal price.

People with telephones at home rent them out to neighbors at four to six times the normal rate for a call.

"The people's main worry is inflation," said one resident running a black market shop and telephone stand.

"A lot don't care what kind of government there is—even the communists could come in and they would be welcome—as long as the prices come down."—Reuter.●

By Mr. LEVIN (for himself, Mr. DIXON, Ms. MIKULSKI, Mr. MURKOWSKI, and Mr. SIMON):

S. 823. A bill to provide OPIC insurance, reinsurance, and financing to eligible projects in Poland; to the Committee on Foreign Relations.

INVESTMENT IN POLAND'S PRIVATE SECTOR

● Mr. LEVIN of Michigan. Mr. President, today I am introducing legislation similar to legislation I introduced last year, that would allow the Overseas Private Investment Corporation [OPIC] to assist United States businesses wishing to invest in the Polish private sector. I am offering this bill because I believe that Poland, today more than ever, presents us with a genuine opportunity to support meaningful democratic change in a Communist country. I am pleased that once again Senator DIXON, Senator MIKULSKI, Senator MURKOWSKI, and Senator SIMON have joined me in offering this bill.

After years of bravely insisting on at least minimal freedoms, the Polish people have won an agreement relegalizing the banned Solidarity Union and providing for the first genuinely free elections since World War II. Although we can neither guarantee the successful implementation of the accord, nor second guess the Soviet response, we can act swiftly and clearly to demonstrate our support.

The legislation I am offering today is a first step toward promoting political and economic change by permitting OPIC to help U.S. businesses invest in small scale private enterprise. The bill would allow OPIC to operate in Poland if and only if, OPIC and the State Department certify that four carefully defined conditions are met.

This bill would establish four conditions for OPIC involvement in Poland.

The first condition ensures that OPIC would only be involved in projects affecting the Polish private sector, or projects sponsored by the Catholic Church or other independent social organizations.

The second condition ensures that workers' rights are respected in the enterprises involved in OPIC-sponsored projects, even though government policies in Poland do not now meet all the requirements of an acceptable standard.

The third condition would reinforce existing statutory language requiring that OPIC projects not adversely affect U.S. employment or import sensitive U.S. industries. And the fourth condition would make OPIC involvement in Poland contingent on the Polish Government taking further steps to liberalize the economy. This means both enacting and implementing reforms that would improve the climate for private businesses in Poland.

As they push for democratization, the Polish people are at a crossroad in their history. They should be encouraged by the weight of their tradition of independent activity in the Catholic Church, the unions and the underground press. They have been led by an outspoken, dedicated and unrelenting advocate—Lech Walesa. However, today they are faced with serious threats to their economic security—rapid inflation, extreme disequilibrium in supply and demand, and a $39 billion trade deficit. In light of all this, they know how unprecedented and significant the Roundtable Reforms are.

But the Polish people and the members of Solidarity also know how quickly the crush of marshal law can come. They know that to reach agreement on reform is only half the battle. Actually implementing the agreed upon changes is the other half.

The legislation I am offering today was drafted in consultation with a number of interested groups and institutions. It has been endorsed by the Polish American Congress. Edward J. Moskal, president of the organization said, "We strongly endorse and support this initiative, which should assist and encourage meaningful development for the market-oriented economy in Poland."

If it is successful, the bill's effects will not be limited to just the economic sphere. It will be part of the bigger trend toward economic, social and political liberalization. While the bill's impact would be modest, it would be one important step which the United States can take to foster further reform in Poland.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) not withstanding any other provision of law, the Overseas Private Investment Corporation (hereafter in this Act referred to as "OPIC") may issue insurance or reinsurance, guarantee loans, or extend financing for eligible investors, in accordance with section 234 of the Foreign Assistance Act of 1961, with respect to projects in Poland only if such projects are undertaken in conjunction with the nongovernmental sector in Poland.

(2) For purposes of this Act, the term "nongovernmental sector" includes private enterprises, cooperatives (insofar as they are not administered by the Government of Poland), joint ventures (insofar as none of the partners is the Government of Poland or an instrumentality thereof), "Polonia" firms (businesses in Poland wholly or partly owned by United States citizens of Polish descent), the Catholic Church, and other independent social organizations.

(b) Each fiscal year, OPIC shall certify to the Congress that businesses in Poland with respect to which OPIC has undertaken any of the activities described in subsection (a) do not violate any of the internationally recognized workers rights defined in section 502(a)(4) of the Trade Act of 1974, including the right of workers to be represented by the union of their own choice, including the independent trade union "Solidarity".

(c) OPIC shall not issue any insurance or reinsurance, guarantee loans, or extend financing to an eligible investor with respect to any project in Poland which fosters unfair competition with import-sensitive United States industries or leads to significantly adverse impacts on United States employment.

(d) OPIC shall not undertake any of the activities described in subsection (a) with respect to projects in Poland until the Secretary of State has certified that the Government of Poland has enacted and implemented laws which significantly improve the operating conditions for private enterprises (domestic and foreign) in Poland. Such improvements shall include reform of the present laws governing joint ventures and the licensing of new businesses.●

By Mr. ROTH:

S. 824. A bill to create a Federal initiative for affordable quality child care, and for other purposes; to the Committee on Finance.

CHILD CARE DEVELOPMENT ACT

● Mr. ROTH. Mr. President, I am pleased to reintroduce my child care initiative, which today is reborn as the Child Care Development Act of 1989. This legislation represents a flexible, fiscally responsible, and coordinated approach to the growing need for affordable, quality child care. It will improve the quality and increase the availability of child care, without introducing undue Federal interference or regulation.

The need for a Federal child care initiative is clear, given the profound changes that are taking place in the American labor force and the American family. Simply stated, more and more mothers are working, often out of economic necessity. In fact, it has been projected that by 1995, two-thirds of all preschool children and four out of five school age children will have mothers in the labor force. Many families, particularly those headed by single parents, are facing increasing difficulty in finding good, affordable care for their children. The lack of such care imperils the safety and development of a generation of children, and stifles economic development in those communities where companies may be reluctant to locate or expand.

But before we commit to Federal involvement in child care, Mr. President, we must make certain that any plan we adopt is flexible, fiscally responsible, and coordinated. The best way to assure flexibility is to promote innovative, locally conceived approaches to child care within each State. The most fiscally responsible way to accomplish this goal is to redirect funding from other sources within the budget. The enormity of the budget deficit compels us to take a hard look at the usefulness of other programs before we spend Federal money in a new area. And as as we contemplate a new Federal child care initiative, we must take care to insure that we avoid unnecessary duplication and overlap with existing programs.

Flexibility, fiscal responsibility, and coordination are the guiding principles behind the Child Care Development Act of 1989. The centerpiece of the bill authorizes $250 million each year for the next 3 fiscal years to be provided to the States for child care programs. The States are to distibute the funds as grants or loans to child care providers for capital expenditures, furnishings, operating expenses, or training. The possible uses for these funds are, by intention, broadly defined, to permit maximum flexibility for the States in funding innovative approaches to child care. States may also use portions of their grants to provide child care training to adults receiving Aid to Families with Dependent Children. This provision is designed to increase the number of qualified child care workers while at the same time helping welfare recipients to become self-supporting.

The requirements that the States must meet in order to receive funding under my legislation are modest, yet sensible: Each State must adopt its own child care accreditation standards along with methods of inspection and certification of child care facilities; each State must certify that at least 25 percent of the persons receiving assistance under the act will be from low-income families; and each State must coordinate any programs funded as a result of the act with other child care services available in the State. The bill also provides that States may transfer child care funds provided under other Federal programs for use in accordance with this act.

The cost of the grant program established by the bill would be offset by the repeal of the Appalachian Regional Development Commission, the economic development programs of the Tennessee Valley Authority, and the public works construction program administered by the Economic Development Administration. While it is never easy to terminate any Federal programs, we must face reality, Mr. President: The Federal budget deficit remains unconscionably large. Now, more than ever, we must make difficult choices, and establish priorities rather than increase Federal spending indiscriminately. I believe that a program aimed at confronting the shortage of child care throughout the Nation must take priority over three programs that target economic development in a few, selected communities. As we are all aware, the availability of child care is itself a stimulus to economic development. Bearing this in mind, I am confident that the Child Care Development Act of 1989 would have a more positive effect on economic development than the programs from which its funding is derived.

Another provision of the bill would establish, at minimal cost, an incentive for a largely untapped labor pool—Social Security recipients aged 62 to 69—to get actively involved in child care. Many older Americans have already chosen to begin second careers caring for children. However, many more are reluctant to enter this rewarding field for fear that they will sacrifice their Social Security benefits. My bill would exempt income earned in child care from consideration under the Social Security earnings test for recipients aged 62 to 69. Earnings for those 70 or over are already exempt. At the same time as helping to alleviate the shortage of qualified day care providers, the bill would help promote a valuable interaction between generations.

Finally, the bill provides for a study of child care programs funded by the Department of Health and Human Services, with the intent of enhancing cooperation and coordination between

those programs. This provision will ensure maximum efficiency and adaptability in the Federal response to child care.

Mr. President, in the year since I first introduced my child care initiative, the need for affordable, quality child care has surely grown. I call on my colleagues to join me in responsibly addressing this need by supporting the Child Care Development Act of 1989.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS ON CHILD CARE DEVELOPMENT ACT OF 1989

Section 1. Section 1 states the short title of the bill, "The Child Care Development Act of 1989," and contains the table of contents.

Section 2. Section 2 describes the Congressional findings on which the legislation is based, and the precise purposes of the legislation. The thrust of the findings is that the rapidly growing numbers of households in which mothers are working outside the home is creating a growing need for affordable child care services. This section explains that Congress recognizes that the availability of child care programs is an important spur to economic development and that child care needs vary from place to place. Accordingly, the legislation is designed to provide maximum flexibility to the states to promote the availability of child care.

Section 3. Section 3 defines certain terms used in Sections 5 through 11, which describe the child care block grant program established by the legislation. In defining "eligible entities," this section makes it clear that the legislation is intended to promote the involvement of public, non-profit and private organizations. Also, in defining "eligible providers," this section leaves the program created by the bill open to a variety of child care settings as determined by the Secretary of HHS or the lead agency of each state.

Section 4. Section 4 authorizes $250 million each year for fiscal years 1990, 1991 and 1992, to establish a child care block grant program.

Section 5. Section 5 establishes the formula for the distribution of the child care block grant. The formula, the specifics of which will be prescribed by the Secretary, is based on the number of children under the age of 16 in the state and the number of women in the workforce in relation to the total numbers of children under the age of 16 and women in the workforce in all states.

This section also establishes a minimum allotment of the greater of one half of one percent of the funds appropriated or $2 million to ensure that each state can establish a viable program. The Secretary of Health and Human Services will use the most recent data available to allot funds.

This section further provides that funds received by the states under the child care block grant may be carried over into the following fiscal year when not obligated in the fiscal year for which the allotment was made.

This section also establishes a mechanism for distributing additional allotments to the states in the event that funds become available as a result of a state not being able to use its allotment or part of its allotment.

Section 6. Section 6 provides that the governor of a state must designate a lead state agency for the purposes of administering the child care block grant to be able to participate in the program. This underscores the bill's purpose to coordinate programs, consolidate information, and streamline the processing of paperwork related to the block grant program.

Section 7. Section 7 stipulates that federal child care block grant funds may be used by the states to make grants or loans to public, non-profit, and private organizations and child care centers or family day care providers for capital expenditures, furnishings, operating expenses and training.

This section also specifies that a state may use child care block grant funds to provide child care training to adult recipients of Aid to Families with Dependent Children, if the lead agency determines that such recipients are qualified to receive training.

In addition, this section establishes that not more than 7 percent of the federal funds received by the state may be used for administrative expenses.

Section 8. Section 8 establishes the application process by which states qualify to receive federal child care block grant funds.

In its application, a state must certify the following: that it will coordinate child care services initiated with federal child care block grant funds with other child care services available in the state; that child care block grant funds will supplement and not supplant efforts to provide quality child care; that standards or accreditation or licensing for family-based and group child care providers have been adopted and methods of inspection and certification have been implemented; and that not less than 25 percent of the persons benefiting from the assistance provided with child care block grant funds will be below the higher of the federal poverty level or 50 percent of the state's median income.

This section also provides that the application submitted by the state must include a plan. The plan must identify the lead agency which has been designated by the governor to administer the funds, and describe how the state has complied with the requirements set forth in subsection (b)(1). The plan must also provide the method and means for collecting data on the need for child care services, in the state, as well as the availability of child care services and the number and income levels of persons in need of child care services.

In addition, the plan must describe the following: what child care activities will be supported with the child care block grant funds; how information will be disseminated to individuals seeking child care services and providers seeking grant or loans through the funds provided; and the procedures that the state will use to consider and approve applications. The plan must also include assurances that priority will be given to applicants who demonstrate the ability to continue services undertaken with funds provided through the child care block grant without continued federal support. Finally, the plan must provide that fiscal control and accounting procedures are in place to ensure the proper accounting of federal funds.

Section 9. Section 9 provides for payment of federal funds to the state when the Secretary of Health and Human Services has approved the state's application.

This section also provides that a state may require in cash or in kind contributions from applicants for funds provided through the child care block grant.

Section 10. Section 10 provides that a state may transfer federal child care funds from other sources—the Title XX Social Services Block Grant, the Community Services Block Grant, and Dependent Care Development Grants—to the agency which has been designated by the governor to administer the child care block grant program.

Section 11. Section 11 requires that, within six months after the end of each fiscal year in which a State has received child care block grant funds, the governor must submit a report to the Secretary of Health and Human Services describing how funds received through the program were utilized.

Section 12. Section 12 amends Section 203(f)(5)(C) of the Social Security Act, which currently provides that Social Security beneficiaries under the age of 65 may earn up to $6480 per year in wages or self-employment income, and those between the ages of 65 and up to $8880 per year, without any effect on their benefits. For each $2 earned above those amounts, the beneficiaries lose $1 (although starting in 1990, those between the ages of 62 and 69 will lose $1 for every $3 they earn). The exempt amounts are adjusted each year. Those over 70 may keep all their benefits no matter what they earn. This section would exempt for the earnings test all earnings and self-employment income from the provision of child care for those between the ages of 62 and 69.

Section 13. Section 13 authorizes the Secretary of Health and Human Services to promulgate regulations through "negotiated rulemaking," in accordance with procedures described in the Federal Register by the Administrative Conference of the United States. The procedure involves seeking the participation of interested parties in the development of regulations from the very beginning of the process.

Section 14. Section 14 requires that the Secretary of Health and Human Services, together with the Administrator of the Family Support Administration, study all child care programs administered by the Department of Health and Human Services and issue a report, within a year of the date of enactment. The report will contain an evaluation of all programs and recommendations for additional regulatory and legislative changes that would further the purposes of the legislation.

Section 15. Section 15 repeals the statutes authorizing and pertaining to the Public Works provisions of the Economic Development Act of 1965. This section also specifies that all unobligated funds made available for the Appalachian Regional Development Commission and the economic resource activities of the Tennessee Valley Authority shall be used to carry out the purposes of the Child Care Development Act of 1989.●

By Mr. FOWLER (for himself and Mr. NUNN):

S. 825. A bill to direct the Secretary of the Army to release a reversionary interest in certain land in Clay County, GA; to the Committee on Environment and Public Works.

RELEASE OF REVERSIONARY INTEREST IN CERTAIN LANDS

● Mr. FOWLER. Mr. President, I rise to introduce, with my senior colleague from Georgia, legislation to allow the

citizens of Clay County, GA, the flexibility they need to help themselves.

Clay County, like much of rural Georgia and rural America, is going through hard times. Its community leaders have worked quite diligently to lift the standard of living and to bring economic development to this corner of Georgia.

Among the county's most important assets is a piece of land, some 50 acres in size, on the shores of Lake Walter F. George, a reservoir built and managed by the U.S. Army Corps of Engineers. The county purchased this tract in 1963 from the corps, which declared the land surplus to their needs, but the deed contains a restriction that the property be used "solely for the development of public ports facilities."

Such development has never taken place, and the leaders of the county would now like to use this land to bring jobs and economic activity to this depressed area. Officials of the county and its Economic Development Council are working with a reputable organization to plan a retirement community for this site, a project that has great potential for Clay County and the surrounding area.

Working with Senator NUNN and Congressman CHARLES HATCHER, I have attempted to find an administrative solution to this dilemma. The Corps of Engineers, while acknowledging the potential for this site to bring greater prosperity to southwest Georgia, believes that it does not have the necessary authority to release its reversionary interest in this land. I have looked into other scenarios, involving other Government agencies and requiring the land to change hands several times before possibly coming back into Clay County's ownership, but no administrative alternative exists that will protect and promote the interests of Clay County.

That is why I am today introducing legislation that would direct the Secretary of the Army to release any restrictions that the U.S. Government has on this tract. This legislation will not cost the Federal Government anything. It will not add to the deficit. And yet it will provide the opportunity for clean, safe, responsible development in this economically stressed region. It only seeks to do what's right by the citizens of Clay County.

I hope that my colleagues will join Senator NUNN and me in supporting this legislation and in working for its prompt passage.●

By Mr. BENTSEN:

S. 826. A bill for the relief of River Publishers, Inc. of Wharton, TX; to the Committee on Governmental Affairs.

RELIEF OF RIVER PUBLISHERS, INC.

● Mr. BENTSEN. Mr. President, I am introducing today a private relief bill to require that the Postal Service reconsider its demand that one of my constituent companies, River Publishers, Inc., immediately remit payment of $26,491.95 to satisfy an obligation incurred as a result of erroneous postage rates it was quoted and charged by the Bay City, TX, Postmaster in 1983. Several years ago, River Publishers mailed a publication called Mid-Coast Advertiser to persons in Wharton county, TX. Shortly thereafter, a postal inspector advised the local post office that it had computed postage rates for the publication on the wrong form which resulted in a postage deficiency in the amount demanded by the Service.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That River Publishers, Inc. of Wharton, Texas, is hereby relieved of all liability for payment to the United States of the amount of $26,491.95, which is the difference between the amount that should have been paid and the amount actually paid by River Publishers, Inc. for postage on second class mailings of the Mid-Coast Advertiser for the period from May 5, 1983, through January 4, 1984. Such liability resulted from the reliance of River Publishers, Inc. upon postal rates specified in good faith by the appropriate postmaster although such rates were erroneous.

SEC. 2. The Secretary of the Treasury is authorized and directed to pay to River Publishers, Inc., out of the money in the Treasury not otherwise appropriated, an amount equal to the sum of any payments paid by River Publishers, Inc. to the United States on account of the liability referred to in the first section of this Act.

SEC. 3. No part of the amount of liability relieved pursuant to the first section (including any amount appropriated pursuant to section 2) in excess of 10 per centum thereof shall be paid to or received by any agent or attorney on account of services rendered in connection with such liability, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not to exceed $1,000.●

By Mr. PELL (by request):

S. 827. A bill to amend the Foreign Assistance Act of 1961 to authorize a multiyear economic assistance program for the Philippines, and for other purposes; to the Committee on Foreign Relations.

ECONOMIC ASSISTANCE PROGRAM FOR THE PHILIPPINES

● Mr. PELL. Mr. President, on April 17, the Department of State transmitted, on behalf of the President, a bill to authorize a multiyear program of economic assistance for the Philippines. The bill authorizes the appropriation of $1 billion over a multiyear time frame, but limits the initial appropriations of funds to $200 million for fiscal year 1990.

This legislation fulfills the Bush administration commitment to participation with the mutilateral financial institutions and other bilateral donors in a coordinated economic reform and development program, including voluntary debt reduction programs, in the Philippines. The bill explicitly links provision of assistance under this new initiative to progress by the Government of the Philippines in the implementation of its economic, structural, and administrative reform program.

Mr. President, I ask unanimous consent that the text of the bill as well as a section-by-section analysis prepared by the administration be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Multilateral Assistance Initiative for the Philippines Act of 1989".

MULTILATERAL ASSISTANCE INITIATIVE FOR THE PHILIPPINES

SEC. 2. Part I of the Foreign Assistance Act of 1961 is amended by adding after chapter 6 the following new chapter:

"CHAPTER 7—MULTILATERAL ASSISTANCE INITIATIVE FOR THE PHILIPPINES

"SEC. 471. FINDINGS AND STATEMENT OF POLICY.—(a) The Congress finds as follows:

"(1) The people of the Philippines and the people of the United States continue to enjoy a longstanding relationship of mutual respect and cooperation;

"(2) The return of democracy to the Philippines under the leadership of President Corazon Aquino has brought our two countries closer together and offers an opportunity to the Philippines to become an economic, social, and political leader in southeast Asia;

"(3) The Philippines is currently facing a domestic insurgency which threatens the Aquino government's efforts to broaden the participation of the people of the Philippines in the development of their country;

"(4) It is in the mutual interest of our two peoples that the Philippines be provided all possible assistance, including voluntary debt reduction programs under appropriate circumstances, in its efforts to redress the problems caused by economic deterioration and social inequity which have fueled the domestic insurgency; and

"(5) The promotion of democracy and achievement of sustainable economic growth require a partnership among the Philippines, multilateral institutions, bilateral donors, and the private sector to help the Philippines restructure its economy and alleviate its debt service in order to achieve broadly-based, self-sustaining growth and to improve the quality of life of the people of the Philippines.

"(b) It is the sense of the Congress that—

"(1) The United States should participate with the multilateral financial institutions

and other bilateral donors in a coordinated economic reform and development program, including voluntary debt reduction programs, in the Philippines; and

"(2) A multi-year commitment of resources by the United States, other bilateral donors, and the multilateral financial institutions with a continued reform effort and leadership role by the Government of the Philippines, will be necessary in order to ensure continued economic growth in the Philippines and enhanced participation of the people of the Philippines in the democratic process.

"SEC. 472. USES OF ASSISTANCE.—The President is authorized to provide assistance on such terms and conditions as he may determine to carry out the purposes of this chapter. Such assistance shall have as its ultimate objective, in conjunction with assistance provided by other donors, support of the newly reestablished democracy in the Philippines, promotion of sustained economic growth led by the provate sector, and improvement of living conditions for the people of the Philippines, and shall build upon the progress that the Government of the Philippines has made in the development and implementation of economic, structural, and administrative reforms. The provision of assistance will be linked to progress by the Government of the Philippines in the implementation of its economic, structural, and administrative reform program. Assistance may include support for—

"(1) economic, structural, administrative reforms and voluntary debt reduction programs, necessary to stimulate private sector-led growth, such as import liberalization, export growth and diversification, and the privatization of state enterprises;

"(2) infrastructure needed by the private sector, particularly in rural areas;

"(3) strengthening the private sector, including promoting greater participation of the United States private sector in the development of the Philippines; and

"(4) such other programs as are consistent with the purposes of this chapter.

"SEC. 473. REPORT TO CONGRESS.—For each year, beginning with the budget request for the fiscal year 1991, as soon as possible after the transmittal by the President of the Budget of the United States, the Secretary of State and the Administrator of the Agency for International Development shall submit a report to the Congress on progress in implementing the objectives of the program, to include a review of—

"(1) the actions of the Government of the Philippines related to this assistance effort, including implementation of economic, structural and administrative reforms;

"(2) the participation of the other bilateral donors and multilateral financial institutions in the program, including the level of their assistance, and the effectiveness of efforts to coordinate assistance activities;

"(3) the progress being made toward the achievement of the objectives of the program and the obstacles to such achievement; and

"(4) the budget request for the relevant fiscal year.

"SEC. 474. AUTHORIZATION.—(a) There are authorized to be appropriated to the President for the purposes of this chapter, in addition to amounts otherwise available for such purposes, $1,000,000,000, of which not more than $200,000,000 may be appropriated under this subsection for the fiscal year 1990. Funds appropriated under this subsection are authorized to remain available until expended.

"(b) None of the funds appropriated pursuant to the authority of this section for the fiscal year 1990 may be made available for the Philippines until the President has received a document, developed by the Government of the Philippines and acceptable to the major bilateral donors and appropriate representatives of multilateral financial institutions participating in the assistance programs, which sets forth the overall framework and specific objectives of macroeconomic, administrative and structural reforms, and voluntary debt reduction programs under appropriate circumstances, which the multilateral assistance program is designed to support. It is the sense of the Congress that, prior to requesting additional amounts to carry out this chapter, the President shall take into account the progress being made by the Government of the Philippines towards achieving such reform objectives, the extent of financial and other participation of other bilateral donors and multilateral financial institutions, and efforts to coordinate the assistance program. Such considerations will be primary factors in decisions by the Congress to provide additional appropriations to carry out this chapter.

"SEC. 475. DONOR COORDINATION.—It is the sense of the Congress that critical to the success of the Multilateral Assistance Initiative for the Philippines will be the ability of the bilateral donors, the multilateral financial institutions, and the Government of the Philippines to coordinate effectively their objectives and programs. It is further the sense of the Congress that all bilateral donors to this program should take steps to simplify procurement and disbursement procedures and to ensure that any conditions on the provision or use of assistance are complementary, and that the Government of the Philippines should establish such internal procedures and processes as will ensure the most effective use of the resources provided by the bilateral donors and the multilateral financial institutions.".

SECTION-BY-SECTION ANALYSIS

The Bill, entitled the "Multilateral Assistance Initiative for the Philippines Act of 1989," authorizes a multi-year economic assistance program for the Philippines.

Section 2 of the bill amends part I of the Foreign Assistance Act of 1961 to add a new chapter 7. Section 471 of the new chapter contains the policy framework within which the economic assistance program will operate. Among other things, section 471 states the need for a multi-year and multilateral approach to address the economic problems confronting the Philippines, with the Government of the Philippines primarily responsible for the development of the policy framework within which donor assistance will be provided.

New section 472 contains several examples of the kinds of assistance programs it is anticipated that the United States assistance effort will support. Additionally, in recognition of the importance of economic reform to the success of the multi-donor program, the provision of assistance is linked to progress by the Government of the Philippines in the implementation of its reform program.

New section 473 provides for an annual report to the Congress concerning progress being made in the multi-donor program.

New section 474 authorizes the appropriation of $1 billion over the life of the program, limiting to $200 million the amount that may be appropriated for fiscal year 1990. Funds appropriated for fiscal year 1990 may not be made available unless the President has received a Government of the Philippines proposal (acceptable to major donors and appropriate representatives of multilateral financial institutions participating in the program) which sets forth the overall framework of macroeconomic, administrative, and structural reforms, and voluntary debt reduction programs under appropriate circumstances, which the multilateral assistance program is designed to support.

New section 475 expresses the sense of the Congress that a critical element in the success of the multilateral program will be the willingness and ability of the bilateral donors, the multilateral financial institutions, and the Government of the Philippines to coordinate their activities effectively.●

By Mr. DOMENICI (for himself, Mr. BOREN, Mr. DOLE, Mr. NICKLES, Mr. WALLOP, Mr. GARN, Mr. BINGAMAN, Mr. JOHNSTON, Mr. MCCLURE, and Mr. GRAMM):

S. 828. A bill to amend the Internal Revenue Code of 1986 to provide incentives for the removal of crude oil and natural gas through enhanced oil recovery techniques so as to add as much as 10 billion barrels to the U.S. reserve base, to extend the production of certain stripper oil and gas wells, and for other purposes; to the Committee on Finance.

ENHANCED OIL AND GAS RECOVERY TAX ACT

Mr. DOMENICI. Mr. President, I am today introducing the Enhanced Oil Recovery Tax Act of 1989, legislation to encourage a dramatic expansion of America's oil production in a manner that is sound economically and sound environmentally.

This bill restores incentives for the oil industry, incentives that will lead to the extraction of far more oil per well, reducing the demand for oil imports that have cost our economy so dearly.

My bill accomplishes this through the use of a modest Federal tax incentive, one that will produce a major benefit to the American economy.

Specifically, assuming today's oil prices, this bill would increase America's oil reserves by 25 percent, at a cost in lost Federal revenues of about 35 cents a barrel.

Let me explain the situation faced by the oil industry today.

There has been a significant decline in world oil prices over the past decade, a decline that has spread economic problems throughout that area of the Nation known as Oil Patch, lowering exploration and cutting back production.

Certainly, there have been major problems in New Mexico, where oil is a key industry. New Mexico produced 76 million barrels of oil in 1984. Output since then has dropped, with production expected to fall to 24 million bar-

rels in 1995, unless we adopt incentives such as those in my bill.

Low prices have had an impact well beyond the decline in exploration that has occurred. Low oil prices have reduced the options that for various oil recovery techniques. The cost of those techniques is simply greater than the value of the oil that could be extracted.

This is a dangerous trend for a nation that is ever more dependent upon foreign energy sources, sources that leave us vulnerable to manipulation, and sources that cost us billions in our annual trade deficit. Petroleum represents 28 percent of our trade deficit. This past January, for example, over half America's oil came from foreign sources.

What do we do about it? We could finance a massive federally sponsored program for new exploration, but we won't. We could adopt policies that push up oil prices in a dramatic way. But we won't do that, either.

A better way exists, one that will use our existing production system more efficiently, one that will do it so the overall public sector receives more revenues, and one that will do it at no additional cost to energy users.

My proposal is based on a simple fact: Standard oil recovery techniques leave 65 to 70 percent of the oil in the ground.

Let me repeat that: When the oil industry drills a well and extracts all that it can economically, about two-thirds of the oil is left behind. The oil is left in the ground because it is uneconomic to extract more than a third of the oil from a typical well in today's market.

When the well is drilled, the primary recovery of the oil comes as a result of natural reservoir energy, which pushes the oil through the reservoir rock to the production well.

The oil industry also uses what is termed "conventional secondary recovery," which injects water or gas, under pressure, into the oil formation, forcing more oil to the surface.

With these two production techniques, America's petroleum industry obtains that 30 to 35 percent recovery.

Yet techniques exist to extract far more oil per well. Unfortunately, those techniques are expensive; they require considerable capital investment beyond what is generally economic under today's tax structure.

These tertiary or enhanced oil recovery methods involve techniques such a miscible flooding—injecting carbon dioxide into the oil reservoir—or injecting what in effect is a soap that scrubs more oil out of the formation or the use of steam that in effect melts some of the most viscous oils so they too, can flow to the well.

The Department of Energy estimates America's current reserves of oil at 26 billion barrels, assuming today's prices of around $20 a barrel and existing Federal tax policy.

Yet what would happen if the Federal Government alters its tax policy to encourage wider use of those enhanced recovery techniques?

Using the provisions I have included in this bill, DOE estimates that America's oil reserves would be increased by 6.9 billion barrels, assuming $20 a barrel oil. If world oil prices were to rise to $24 a barrel, the provisions of my bill would expand our national oil reserves by 9.4 billion barrels.

Let me reiterate that. DOE estimates that this bill will expand America's $20 a barrel oil reserves by approximately 25 percent. The increase in reserves is even greater at $24 a barrel.

The incentives in my bill could stimulate more than 400 million barrels of new enhanced oil recovery reserve additions in as many as four States, California, Louisiana, New Mexico, and Texas. Enhanced oil recovery potential in five other States, Alaska, Arkansas, Kansas, Oklahoma, and Wyoming, could increase by over 100 million barrels depending on the oil price considered.

By comparison, the range of estimates for the recoverable oil reserves at the Alaska National Wildlife Refuge run between 600 million barrels and 9.2 billion barrels.

The gains that would be produced with my bill does not involve the drilling of thousands of new wells. The gains would be achieved simply through far greater productivity from each well existing now, or each well that would be drilled in any event.

And this increase is achieved with no rise in the price of oil to consumers.

Further, this bill will attract investment and jobs, cutting unemployment in areas of relatively high unemployment. Inevitably, that will produce a ripple effect as economic activity increases, but I have not included any secondary tax revenues in my calculations.

In New Mexico alone, enhanced oil recovery could more than double our recoverable reserves, creating 8,000 new jobs by the year 2000.

Now, Mr. President, let me explain the precise provisions of the Enhanced Oil Recovery Tax Act of 1989.

The bill restores the oil depletion allowance to its historic level of 27½ percent, but only for the "incremental" oil that is pumped as a result of enhanced oil recovery techniques. Under this bill, current law applies to current reserves; the new depletion allowance applies only to the extra reserves produced with the new investment.

The bill clarifies that a 10-percent research and development tax credit will be available for the costs of enhanced oil recovery projects.

The bill suspends the intangible drilling costs and percentage depletion preferences for the alternative minimum tax so long as the price of oil remains below $30 a barrel. Should the price rise above that $30 figure, much of the benefits I propose would disappear.

The bill permits the States to determine which projects would qualify as enhanced oil recovery projects.

The bill would increase the net income limitation on oil and gas to 100 percent of taxable income.

The bill cuts off the new depletion allowance and tax credit once the producer recovers its investment.

What would this cost the U.S. Treasury? The Department of Energy estimates the loss in Federal revenues at 35 cents a barrel on each additional barrel of $20 crude that would be recovered.

So if this bill leads to the extraction, as DOE has estimates, of an additional 6.9 billion barrels of oil, the total loss in Federal revenues over several decades will be $2.4 billion.

That sounds like a pretty good investment to this Senator: A 25-percent increase in our national oil reserves at a Federal cost, over many years, of $2.4 billion.

If world oil prices rise by $4 a barrel, the increase in oil reserves as a result of this legislation would be 9.4 billion barrels. That would produce a long-term revenue loss to the Federal Treasury of $5.5 billion, or less than 60 cents a barrel.

What is key to this bill is that it will lead to the production of oil that otherwise will not produced in the United States.

If American consumers were to purchase that same 6.9 billion barrels of oil on the world market—as we inevitably will do if we are unable to increase at-home reserves—we will spend $138 billion in foreign markets. We'll spend that money in the Middle East, not America, further aggravating our balance-of-payments deficit.

Let me make that point once again. If we leave this $20 a barrel oil in the ground, we, as a nation, will end up spending $138 billion to purchase that amount of oil from the Middle East and elsewhere.

But if we pass by bill, that volume of oil will flow from American wells, at a cost that DOE estimates at $2.4 billion in lost Federal tax revenues.

Isn't that a sound investment: Lose $2.4 billion in Federal taxes to save $138 billion that would otherwise be spent to purchase foreign oil.

So this bill makes sense economically. And this bill makes even greater sense from the point of view of America's security.

I would point out further that the Canadian Province of British Columbia has adopted incentives to encour-

age enhanced oil recovery there. With the Free Trade Agreement between our two nations, it is time we matched the incentives available in Canada.

I urge my colleagues to study this bill with care, and I hope they will join with me in sponsoring it and seeing that it receives early and favorable action by the Senate.

In addition, Mr. President, I wish to thank the Department of Energy, particularly its Bartlesville Project office and its Tertiary Oil Recovery Information System, for DOE's excellent study on this issue.

Mr. President, I ask unanimous consent that a copy of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Enhanced Oil and Gas Recovery Tax Act of 1989".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Enhanced oil and gas recovery depletion allowance.
Sec. 3. Alternative minimum tax provisions.
Sec. 4. Research and development credit.

SEC. 2. ENHANCED OIL AND GAS RECOVERY DEPLETION ALLOWANCE.

(a) IN GENERAL.—Section 613A of the Internal Revenue Code of 1986 (relating to limitations on percentage depletion in case of oil and gas wells) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) OIL AND GAS RECOVERED THROUGH ENHANCED RECOVERY TECHNIQUES.—

"(1) IN GENERAL.—In the case of so much of the taxpayer's production of domestic crude oil or natural gas during the enhanced recovery period which is incremental tertiary oil or incremental tertiary gas—

"(A) the allowance for depletion shall be computed in accordance with section 613, and

"(B) for purposes of section 613(a), the percentage determined under paragraph (2) shall be deemed to be the percentage specified under section 613(b).

"(2) ENHANCED OIL RECOVERY DEPLETION PERCENTAGE.—

"(A) IN GENERAL.—The percentage determined under this paragraph shall be 27.5 percent.

"(B) PHASE-OUT AS OIL PRICES INCREASE.—In the case of production during any calendar year, if the average annual removal price during the calendar year exceeds $30, the percentage under subparagraph (A) shall be reduced (but not below 15 percent) by 1 percentage point for each dollar of such excess.

"(C) AVERAGE ANNUAL REMOVAL PRICE.—For purposes of subparagraph (B), the average annual removal price for any calendar year shall be determined by dividing the taxpayer's aggregate production of domestic crude oil during the calendar year by the aggregate amount for which such domestic crude oil was sold (determined after application of paragraphs (2), (3), and (4)) of section 4988(c) by the taxpayer.

"(D) INFLATION ADJUSTMENT.—In the case of any calendar year after 1990, the $30 amount under subparagraph (B) shall be adjusted by multiplying such amount by the inflation adjustment factor for such calendar year determined under section 29(d)(2)(B) by substituting '1989' for '1979'.

"(E) NATURAL GAS.—The percentage under this paragraph with respect to incremental natural gas shall be determined in the same manner as for incremental tertiary oil.

"(3) INCREMENTAL TERTIARY OIL OR GAS.—For purposes of this subsection—

"(A) INCREMENTAL TERTIARY OIL.—The term 'incremental tertiary oil' has the meaning given such term by section 4993, except that—

"(i) the date of the enactment of this paragraph shall be substituted for each of the following:

"(I) March 31, 1979 in section 4993(b)(1),

"(II) 1978 in section 4993(b)(1)(A), and

"(III) May 1979 in section 4993(c)(2)(B),

"(ii) reservoir improvements (including infill patterns and pattern conformance) shall be treated as part of a project which is otherwise a qualified tertiary recovery project,

"(iii) nonhydrocarbon gas flooding, tight formation gas as defined in Section 107(c)(3)(4) and (5) of the Natural Gas Policy Act, and tight formation oil with a 5 millidarces permeability standard shall be treated as meeting the requirements of Section 4993(c)(2)(A), and

"(iv) any expansion (either horizontally or vertically) after the date of the enactment of this paragraph of a project begun on or before such date shall be treated as a separate project.

"(B) INCREMENTAL TERTIARY GAS.—The determination as to whether domestic natural gas is incremental tertiary gas shall be made in a manner similar to the manner as the determination whether domestic crude oil is incremental tertiary oil is made. For purposes of the preceding sentence, directional drilling in a tight sands formation shall be treated as meeting the requirements of section 4993(c)(2)(A).

"(4) ENHANCED RECOVERY PERIOD.—For purposes of this subsection.

"(A) IN GENERAL.—The secretary shall publish a schedule of enhanced recovery periods for projects which—

"(i) is based on the average period which is required for a project to recover the expenses of the type of qualified tertiary recovery project involved, and

"(ii) takes into account regional differences.

"(B) TRANSITION RULE.—An enhanced recovery period shall not end before the later of—

"(i) the date which is 6 months after the publication of the schedule under subparagraph (A), or

"(ii) the date specified in the schedule.

"(5) SPECIAL RULE FOR EXISTING PROJECTS.—In the case of a project the beginning date for which begins on or before the date of the enactment of this paragraph—

"(A) oil or gas produced after such date of enactment which (but for the project beginning date) would be treated as incremental tertiary oil or gas shall be so treated solely for purposes of this subsection, and

"(B) paragraph (2)(A) shall be applied by substituting '18 percent' for '27.5 percent'.

"(6) OTHER RULES.—For purposes of this subsection—

"(A) COORDINATION WITH OTHER PROVISIONS.—Unless the taxpayer elects not to have this subsection apply to incremental tertiary oil or gas, such oil and gas shall not be taken into account in computing the taxpayer's depletable oil quantity under subsection (c).

"(B) REFERENCE.—Any reference to a section of chapter 45 (relating to windfall profit tax on crude oil) shall be a reference to such section as in effect before its repeal.

"(7) TERMINATION.—This subsection shall not apply to production after December 31, 2009, except that in the case of production after December 31, 1999, and before Janaury 1, 2010, this subsection shall apply only to production from projects the beginning date for which is before January 1, 2000.".

(b) Net Income Limitation on Percentage Depletion Not To Apply.—Section 613(a) of the Internal Revenue Code of 1986 (relating to percentage depletion) is amended—

(1) by striking out "(a) GENERAL RULE.—" and inserting:

"(a) PERCENTAGE DEPLETION ALLOWED.—

"(1) IN GENERAL.—", and

(2) by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULES FOR INCREMENTAL TERTIARY OIL AND GAS.—In the case of any property from which incremental tertiary oil or gas to which section 613A(e) applies is produced—

"(A) paragraph (1) shall be applied separately with respect to such oil or gas and other production from such property,

"(B) income and deductions shall be allocated (for purposes of paragraph (1) and section 613(A)(c)(7)(A) or (B)) to such production in proportion to the gross income during the taxable year from such production, and

"(C) the second sentence of paragraph (1) shall be applied with respect to the incremental tertiary oil or gas by substituting '100 percent' for '50 percent'."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act.

SEC. 3. ALTERNATIVE MINIMUM TAX PROVISIONS.

(a) IN GENERAL.—Section 57 of the Internal Revenue Code of 1986 (relating to items of tax preference) is amended by adding at the end the following new subsection:

"(c) SPECIAL RULES FOR OIL AND GAS REMOVED THROUGH ENHANCED RECOVERY TECHNIQUES.—

"(1) IN GENERAL.—If the average annual removal price for the calendar year in which the taxable year begins is less than $30, paragraphs (1) and (2) of subsection (a) shall not apply to—

"(A) the deduction for depletion for incremental tertiary oil or gas determined under section 613A(e), or

"(B) any intangible drilling costs property allocable to incremental tertiary oil or gas.

"(2) ALLOCATION RULES.—No amounts properly allocable to incremental tertiary oil or gas shall be taken into account under paragraphs (1) and (2) under subsection (a) in determining any deduction for depletion, adjusted basis, excess intangible drilling costs, or net income.

"(3) AVERAGE REMOVAL PRICE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'average annual removal price' has the meaning given such term by section 613A(e)(2)(C).

"(B) INFLATION ADJUSTMENT.—The $30 amount under paragraph (1) shall be adjusted in the same manner as provided in section 613A(e)(2)(D).

"(4) TERMINATION.—This subsection shall not apply to production, or costs paid or incurred, after December 31, 2009, except that this subsection shall apply to production, or costs paid on incurred, after December 31, 1999, and before January 1, 2010, only with respect to projects the beginning date for which is before January 1, 2000."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production, or costs paid or incurred, after the date of the enactment of this Act.

SEC. 4. RESEARCH AND DEVELOPMENT CREDIT.

(a) IN GENERAL.—Section 41 of the Internal Revenue Code of 1986 (relating to research and development credit) is amended by adding at the end thereof the following new subsection:

"(j) SPECIAL RULES FOR RESEARCH RELATING TO OIL AND GAS TERTIARY RECOVERY PROJECTS.—For purposes of this section—

"(1) any research to discover or improve (in accordance with sound engineering principles) 1 or more tertiary recovery methods for domestic crude oil or natural gas shall be treated as qualified research,

"(2) this section shall be applied separately with respect to such research (including the computation of separate base period research expenses), and

"(3) subsection (a)(1) shall be applied by substituting '10 percent' for '20 percent'."

(b) EFFECTIVE DATE.—the amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act and before January 1, 2010, except that amounts paid or incurred before such date shall be taken into account for determining base period research expenses.

By M. ROTH:

S. 829. A bill to provide the President with enhanced rescission authority at such time as the debt of the U.S. Government held by the public exceeds $2,378,000,000,000; to the Committees on Budget and Governmental Affairs, jointly, pursuant to the order of April 4, 1977.

PROVIDING THE PRESIDENT WITH ENHANCED RESCISSION AUTHORITY

● Mr. ROTH. Mr. President, I rise to introduce the Deficit Reduction Guarantee Act, legislation to provide the President with enhanced rescission authority in the event that other efforts to reduced the deficit are unsuccessful. Having agreed to the Gramm-Rudmand law, the Congress and the President have embarked together on a path to a balanced budget by 1993. My legislation reinforces the pursuit of that goal, providing our system of checks and balances with an additional tool to achieve fiscal discipline.

If the deficit is below the annual maximum amounts established by Gramm-Rudman and we maintain a balanced budget thereafter, this enhanced rescission authority will not take effect. If, however, the deficit repeatedly exceeds the annual maximum amounts set by Gramm-Rudman thus causing the public debt to grow faster than envisioned by the established targets, the enhanced rescission authority would take effect by 1993.

A major problem with the Gramm-Rudman law is that once the target for the year is met and the the threat of sequestration has passed, there is little restraint on actual spending, supplementals, or transfers of spending from one year to an adjacent year. While we may be meeting the targets on paper, we are doing little to actually reduce the deficit.

The triggering mechanism in this legislation is the amount of Federal debt held by the public as published by the Department of the Treasury. This debt increases approximately by the amount of the unified budget deficit. If the Federal Government continues to exceed the annual targets established by the Gramm-Rudman law, the enhanced rescission authority will take effect prior to 1993. The maximum deficit amounts are $136 billion in 1989, $100 billion in 1990, $64 billion in 1991, $32 billion in 1992, and zero in 1993. The accumulated impact of these deficits is an increase in the public debt of $232 billion. Adding this amount to the public debt at the end of fsical year 1988 equals $2.378 trillion—the amount provided in the bill which will trigger the enhanced rescission authority.

Mr. President, I believe this legislation is necessary to break a pattern of budget deficits and spending growth beyond our means. Between 1980 and 1988 Federal revenues jumped 76 percent. Federal spending grew at a faster rate. The Office of Management and Budget estimates that between 1989 and 1994, Federal revenues will increase by $370 billion. Spending will grow at a similar pace. I believe the source of our deficit is not that America is undertaxes, but that the Federal Government spends too much. It is critical that we restrain spending growth. And I strongly believe that we should provide the President with this enhanced rescission authority if other means fail to cut the deficit.

The legislation allows the President to rescind budget authority as bills are presented to him, provided he transmits to the Congress a special message detailing his rescission. The permanent rescission would take effect if Congress fails to pass, within 45 days, a resolution of disapproval. If Congress votes to disapprove the rescission, the President would have the option of using his veto power to protect the rescission. Thus, a two-thirds majority in both Houses could be necessary to revive the vetoed budget authority.

As part of the rescission message, the President must specify the amount rescinded, the governmental functions which will be effected, the reasons why the rescission was requested, and the fiscal, economic, and budgetary impact of the rescission.

In his budget message to Congress, President Bush expressed his support for enhanced rescission authority. While the President can now rescind spending, this authority is quite limited. Under the present process, Congress can simply reject the President's rescissions by inaction. Unfortunately, this allows the Congress to easily disregard the President's efforts. Since the Budget Act was enacted, all too many times the Congress has used inaction to block the President's rescissions. I believe the President is entitled to an up-or-down vote by Congress. This is the minimum we must do in the quest for fiscal responsibility. And this is precisely what my legislation does.

The net result is that the President is given enhanced rescission authority if other procedures continue to fail. This authority would be on the same terms that he has constitutional authority to veto legislation in its entirety. Enactment of this bill will be a valuable tool in guaranteeing the fiscal discipline the Federal Government sorely lacks and pushing the Federal deficit down.●

By Mr. PELL (for himself, Mr. CHAFEE, Mr. KENNEDY, and Mr. KERRY):

S. 830. A bill to amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission; to the Committee on Energy and Natural Resources.

AMENDING PUBLIC LAW 99-647

Mr. PELL. Mr. President, we take a great deal of pride in the fact that America's industrial revolution was born on the banks of the hardworking Blackstone River, which flows from Worcester, MA, to Pawtucket, RI.

The national historic value of this area, and its role as cradle of our industrial revolution, was recognized by the Congress with the enactment of the Blackstone Valley National Heritage Corridor Act (Public Law 99-647) in 1986.

The Blackstone Corridor Commission, created by this law, has done an excellent job of planning to create a chain of linear parks along the banks of the river to preserve, protect, and tell the national story of the Blackstone Valley.

That task, however, requires more Federal assistance to complete. To that end, I am introducing legislation to amend this law by increasing the annual authorization for fiscal year 1990, fiscal year 1991, and fiscal year 1992.

This is truly a bipartisan effort and I am delighted that my colleagues, the junior Senator from Rhode Island [Mr. CHAFEE], the senior Senator from Massachusetts [Mr. KENNEDY] and the junior Senator from Massachusetts

[Mr. KERRY] are joining me in introducing this important measure.

Our legislation, which also is being introduced in the House of Representatives in identical form, would increase the annual operating authorization of the Commission to $350,000 and would authorize funding for matching grants: $700,000 for fiscal year 1990, $1 million for fiscal year 1991, and $1 million for fiscal year 1992.

These operating funds will allow the Commission to bring additional experts in to the planning process and the matching grants funds will help preserve historic structures, develop visitors centers, protect threatened properties, and encourage additional public participation in the parks.

The Blackstone River Heritage Corridor includes the Blackstone Canal, built in the 1820's, which connected Pawtucket, RI, with Worcester, MA, a distance of 46 miles.

This canal became a major trade route and the Blackstone Valley flourished while the canal tied together the mills and businesses that fed our industrial revolution.

When I testified in 1986 in support of the original authorization, which was sponsored by my colleague, the junior Senator from Rhode Island [Mr. CHAFEE], I noted that the Blackstone River is our link not only to the past, but to the future.

That, I think, is the most important point we can make about the Blackstone River Valley Heritage Corridor. By preserving and highlighting our pioneering industrial past, we can foster a better future and an increasing sense of pride for our citizens.

That was the vision I had back in the spring of 1983. It was then I initiated the first meeting of the National Park Service, the Rhode Island and Massachusetts Departments of Environmental Management, and representatives of congressional delegations from both Rhode Island and Massachusetts to coordinate plans for the Blackstone River.

The Rhode Island Department of Environmental Management, back in the early days of this initiative, shared a report which helps to underscore the importance of this Heritage Corridor to those who live in the Blackstone Valley.

The report notes:

The Blackstone Valley has suffered from economic problems since the Great Depression. The loss of the textile industry has been an embarrassment for the people of the valley which has taken away what should be pride in their industrial and cultural heritage.

The Heritage Corridor legislation would give national recognition to the history of the valley and thus restore the self-image of its people. This is essential if the communities within the valley are to participate in saving the heritage of the Blackstone.

The people of Rhode Island clearly support our effort to develop a heritage corridor. They passed the Heritage bond issue in November 1985 which provides $1 million for land acquisition and development of the park system.

Clearly, the desire and commitment was there and remains there on the part of our citizens to create a heritage corridor that would preserve and highlight an important part of our national history.

The birthplace of the American industrial revolution is well worth preserving and we, on the Federal level, should do what we can to support that effort. When we look at historic battlefields throughout America, we should not overlook one or our most important battles—the economic battle of the industrial revolution.

In these times of increasing international competition throughout the world's marketplaces, we owe it to ourselves and our children to make sure that this economic battle site is preserved and that we learn from its lessons.

Mr. President, I ask that this statement and the text of my legislation be printed in the CONGRESSIONAL RECORD as if read.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 830

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACTION PRIOR TO PLAN APPROVAL.

Section 6(c) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647, 16 U.S.C. 461 note) (referred to in this Act as the "Act") is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding paragraph (1), the Commission may make the following grants prior to plan approval—

"(A) historic structure preservation and restoration matching grants, determined in accordance with the Commission's cultural resources inventory and upon consultation with the Massachusetts and Rhode Island State Historic Presevation Officers regarding emergency preservation need and project viability;

"(B) interpretation exhibit grants for interpretive exhibit design and development to encourage the development of Blackstone Valley interpretation for the public;

"(C) cultural and educational program grants; and

"(D) matching grants to assist private and public agencies in acquiring and protecting threatened properties containing exemplary natural and cultural resources.".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Act is amended by striking all of the text and inserting the following:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 10. (a) GENERAL OPERATIONS.—There are authorized to be appropriated to the Commission, for general operations, $250,000 for each of fiscal years 1988 and 1989 and $350,000 for each of fiscal years 1990, 1991, and 1992, except that the Federal contribution to the Commission for general operations shall not exceed 50 percent of the annual operating costs of the Commission.

"(b) GRANTS.—There are authorized to be appropriated to the Commission, for grants authorized by section 6(c)(3), $700,000 for fiscal year 1990, $1,000,000 for fiscal year 1991, and $1,000,000 for fiscal year 1992, to remain available until expended.".

● Mr. KERRY. Mr. President, I am pleased to cosponsor legislation introduced today by Senator PELL increasing the appropriation for the Blackstone River Valley National Heritage Corridor Commission. I would like to take this opportunity to thank the senior Senator from Rhode Island for his leadership role in this important undertaking.

The Blackstone River Valley is the birthplace of the Industrial Revolution and represents an enormous economic, cultural, historical, and recreational resource not only to New England but our entire Nation. The Commission is responsible for coordinating the efforts of 2 States and 20 communities in a public-private venture to preserve and enhance the numerous resources of this area. In undertaking this task, this project represents an outstanding example of how to best use limited Federal dollars to preserve our heritage and natural resources, while allowing for appropriate and necessary economic growth.

This is a most critical time for the Corridor Commission. They are in the process of completing the primary planning stage and moving into the initial coordination and implementation stage of the project. In particular, resources are needed to accomplish the goals set forth when Congress established the Blackstone River Valley National Heritage Corridor in November 1986. Grants must be made available for the preservation and restoration of historic structures and valuable open space lands. Further, resources are also needed for cultural and educational programs.

Mr. President, this legislation gives us the opportunity to follow up on our commitment, and help preserve an area which represents a major part of our country's history. I look forward to working with my colleagues toward the timely passage of this important measure.●

● Mr. CHAFEE. Mr. President, I am delighted to join with my distinguished colleagues from Rhode Island and Massachusetts today in introducing important amendments to the Blackstone River Valley National Heritage Corridor Act.

As the cradle of the Industrial Revolution, the Blackstone Valley has left an indelible impression on our Nation's development. This history and culture of the 46-mile area between Worcester and Pawtucket is an important element of our national heritage,

and is a source of pride for all New Englanders.

Three years ago, to recognize and preserve the significance of the valley, the Rhode Island and Massachusetts delegations introduced the Blackstone River Valley National Heritage Corridor Act. This legislation established a unique type of urban park: a park to highlight the cultural, historic, and economic resources of the corridor. The act set the boundaries of the corridor, and created the Blackstone River Valley National Heritage Corridor Commission to implement a land management plan for the future of the corridor.

Mr. President, the Blackstone River Valley Commission recently gave a presentation on its achievements over the past 3 years and its goals for the future. As an author of the original Blackstone Valley legislation, I was pleased to learn of the corridor's progress. Thanks to the Commission's hard work, and the hard work of local community members, the corridor's development has gone far and fast. It is truly on its way to becoming a "living corridor."

New land has been acquired, new projects have been started, and a comprehensive management plan has been developed. Most importantly, the area's strong sense of pride and community spirit has been revitalized. Everyone is pitching in to help, and enthusiasm is running high.

The legislation that we are introducing today will help the Commission achieve their future plans by fine tuning the original legislation. It provides the necessary funding for the corridor's completion. The Commission will be able to develop visual exhibit centers, restore historic structures, and obtain critical open space areas. It will have the resources to hire land planning and historical specialists. And it will be able to cosponsor special historical and educational events in conjunction with local communities.

Our two States are united in their support for these amendments to the act. I have received several letters expressing support for this legislation from the communities of Woonsocket, Cumberland, Central Falls, and Worcester among others, as well as from Governor DiPrete, the assistant majority leader of the Massachusetts House of Representatives, and the Massachusetts Department of Environmental Management. I ask unanimous consent that a copy of the letter from the Blackstone Valley Tourism Council be included in the RECORD as an example of local support.

Mr. President, the legislation we are introducing today will help the corridor reach its full potential for the benefit of New Englanders and all Americans. I urge my colleagues in the Senate to join me in support of this measure.●

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BLACKSTONE VALLEY
TOURISM COUNCIL, INC.
Cumberland, RI, April 4, 1989.

U.S. Senator JOHN CHAFEE,
SD-567 Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR CHAFEE: We are writing to express our strong support for the efforts of the Blackstone River Valley National Heritage Corridor Commission as outlined in the Commission's recent Congressional briefing session.

Specifically, we fully support the Commission's proposed amendments to the Enabling Act, P.L. 99-647 to correct the deficiencies in the sections pertaining to Commission Membership, Terms of Commissioners and Authorization of Appropriation. We also support the federal funding needs for the Blackstone River Valley Natural Heritage Corridor for: (1) Historic Structures Preservation and Restoration Grants ($1,000,000); (2) Critical Areas (Open Space) Preservation Grants ($500,000); (3) Interpretive Development (Visual Center Exhibit Design and Construction) ($1,000,000); (4) Cultural Heritage Program ($200,000); (5) Annual Operation Budget ($350,000); (6) Annual Park Service Appropriations ($50,000).

We are aware of your past leadership and support for the establishment of the Corridor, and want to take this opportunity to commend you and thank you for that support. The recent unparalleled growth in the Valley increases the urgency for strong action at this time to implement the Commission's emerging cultural heritage preservation and land management planning guidelines. This cannot be done without the significant Federal support requested by the Commission.

Any assistance you can provide in helping the Heritage Corridor Commission to achieve its objectives will be greatly appreciated. Thank you for your interest.

Sincerely,

ROBERT BILLINGTON,
President.

By Mr. DOMENICI:

S. 832. A bill to amend title 23, United States Code, to provide funds for skill training; to the Committee on Environment and Public Works.

PROVIDING FUNDS FOR SKILL TRAINING

● Mr. DOMENICI. Mr. President, today I am introducing a bill which is quite simple. It doesn't cost the Federal taxpayer one additional penny, but it does provide an opportunity to restore an important highway program.

Under the Federal-Aid Highway Act, there is a program called the Supportive Services, On-the-Job Training Program. The purpose of this program is to provide skill training to minority groups and women.

In New Mexico, this has been a particularly important program in training unskilled individuals.

Unfortunately, however, the fiscal year 1989 appropriations bill eliminated the program. The program was zeroed out at the administration's request because of some abuses that had been identified in two inspector general reports.

However, those abuses were limited and occurred in only a few States. Consequently, despite the fact that this has been a highly successful program in many States, everyone has suffered because of the abuses of a few.

Therefore, I am introducing legislation that allows this program to continue in those States that believe it is a sound one.

Specifically, the bill allows the program to continue in those States that are willing to commit a portion of their Federal-aid highway apportionments for skill training. The bill provides States with the authority to expend up to one quarter of 1 percent of their interstate, primary, secondary, urban, bridge, hazard elimination, and rail-highway crossing apportionments for skill training.

Mr. President, by turning over the decision to the States on whether or not to use Federal highway funds for the On-the-Job Training Program, we should ensure that the kinds of abuses cited in the IG reports will not occur again. The bill allows those States where this program has been a success, to continue this valuable service to unskilled individuals.

I urge prompt consideration of this legislation, and I ask unanimous consent that the text of the bill be included at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 832

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 140(b) of title 23, United States Code, is amended by adding the following:

"A State may expend not to exceed one-fourth of one percentum of the funds apportioned to it under sections 104(b), 130, 144, and 152 of this title to pay for skill training provided under this subsection."●

By Mr. METZENBAUM (for himself and Mr. LIEBERMAN):

S. 833. A bill to amend the Cable Act regarding cable communications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. METZENBAUM (for himself, Mr. PRESSLER, and Mr. LIEBERMAN):

S. 834. A bill to amend the Clayton Act regarding cable communications, and for other purposes; to the Committee on the Judiciary.

CABLE TELEVISION LEGISLATION

● Mr. METZENBAUM. Mr. President, today I am introducing two bills that will promote competition and protect millions of consumers across the country from abusive pricing practices by an unregulated monopoly. The bills I

am introducing today will help right the imbalance of power that characterizes the relationship between consumers and producers in the cable television industry. That imbalance of power exists because well over 90 percent of the 8,000 cable systems nationwide are subject to neither competition nor regulation. Potential competitors have encountered numerous obstacles in their efforts to enter the cable market, many of which have been thrown up by the cable industry itself. Meanwhile, the FCC has made it virtually impossible for cities to restrain the rates charged by cable systems. Since neither competition nor regulation is present, millions of cable consumers have no means of protection against unrestrained hikes in cable rates.

The results of the cable industry's exemption from the rules of the market are predictable: since 1987, when cable rates were deregulated, prices have spiraled upward. In my home State of Ohio, the General Accounting Office found that basic rates for the largest cable systems increased an average of 27 percent in the 2 years following deregulation. Nationally, the Wall St. Journal reports that in 1987, cable rates jumped 20 percent; inflation that year increased only 4.4 percent. The trend has continued: nationwide cable costs rose 14 percent over the last year, more than three times as great as the inflation rate for that same period. Department of Labor statistics reveal that last year the price of cable television rose at a higher rate than any commodity or service category tracked by the Consumer Price Index. A number of communities have suffered rate hikes of over 100 percent since deregulation. The steep increases in cable rates illustrate that absent competitive or regulatory constraints, the only protection consumers have against rate hikes are the good graces of a monopolist.

Mr. President, that's not how things are supposed to work in our economic system. And that's not how the Cable Communications Policy Act of 1984 was supposed to work. Contrary to popular belief—and industry assertion—the 1984 Cable Act was not designed to completely deregulate the cable industry. I invite my colleagues to go back and read the act. One of the express purposes of the act is to "promote competition in cable communications and minimize unnecessary regulation * * *." Section 623 of the Cable Act makes it crystal clear that where there is no competition in the delivery of cable services, regulation is necessary. That section explicitly authorizes cities to regulate basic cable rates in the absence of effective competition.

But the competition that was promise has not materialized. In 1984, when Congress passed the Cable Act, the cable industry told us that consumers would have a choice among competing cable systems; today, less than 1 percent of the communities across the country have such a choice. No wonder that one Wall Street analyst—in the course of recommending that investors purchase stock in the largest cable company in the country, TCI—referred to the cable revenue stream as "a monopolistic annuity."

While head-to-head competition among coaxial cable companies has not materialized the chief barriers to entry encountered by noncable technologies have been erected by the cable industry itself. When the 1984 Cable Act was under consideration, wireless cable, direct broadcast satellite, and home satellite dishes were loudly touted—by the cable.

The impetus for deregulation was driven, in part, by the belief that these noncable technologies would emerge as effective competitors in the delivery of cable programming. Noncable technologies such as wireless and satellite dishes have the means to deliver the programming; what they don't have is the programming itself. Since the early 1980's, the cable industry has been sending a clear message to new or potential cable programmers: if you want carriage on the large cable systems, you'd better give us a piece of the action. As a result, the industry has a substantial equity interest in the overwhelming majority of popular cable programs.

Last year, my Antitrust Subcommittee conducted a survey which documented the problems which the noncable technologies—such as satellite dishes and wireless cable—have faced in trying to get the programming that's needed to compete. For example, premium programming such as HBO and Showtime—both of which are owned by large multisystem cable operators [MSO's]—are only available to backyard dish owners on unfair terms. And with few exceptions, such premium programming is unavailable to wireless cable. A few wireless operators have obtained this programming, but only after litigation or because of grandfather clauses in contracts which predate both the spurt of vertical integration in the cable industry and the development of wireless cable as a multichannel distribution service. In addition, some wireless operators who do carry cable programming network are prevented from making those channels available to their customers who live in areas wired for cable.

The cable industry bears much responsibility for stifling the development of competition in the market for delivery of cable programming. But the FCC bears full responsibility for denying cities any ability to control the rates charged by the cable monopolies. The FCC defined effective competition in a manner that precludes rate regulation nationwide but fails to provide consumers with any protection against rate hikes. The FCC's definition holds that a cable company is subject to effective competition if three grade B broadcast signals are available to homes in the cable community.

There are several things wrong with this definition. First, the FCC chose an extremely unreliable measure of signal availability. The grade B contour is essentially a circle drawn around a broadcast transmission tower which describes a geographic area in which 50 percent of the homes near the outer limit of the contour can receive a reasonably clear picture of the station's signal 90 percent of the time. The D.C. Circuit Court of Appeals has termed the grade B signal measure as highly imperfect, noting that "the fact that a particular house falls within the grade B contour of a station does not mean that that station can in reality be picked up on a television set in that house." This is so in part because the grade B signal contour fails to take account of factors which affect reception, such as uneven terrain and densely packed tall buildings.

The end result of the FCC's reliance on this highly imperfect measure of signal availability is that scores of communities across the country technically meet the FCC's definition of effective competition even though, in reality, they are not served by three broadcast's signals. In other words, the use of the grade B contour means that the FCC treats broadcast channels which some viewers cannot receive as competitive alternatives to cable. The Commission can grant waivers authorizing rate regulation in localities which technically meet the FCC definition, if the locality can demonstrate through engineering studies that it does not actually receive three broadcast channels. This procedure is of little help since such studies are expensive and time-consuming, and are not likely to go unchallenged by the local cable system.

But the fundamental problem with the FCC's definition is not the use of the grade B signal standard. The Commission's definition of effective competition fails because its premise is that three free over-the-air broadcast channels represent an effective substitute for the array of programming provided by cable. Cable television is in more than half of America's households because its basic tier of service offers viewers television channels which can't be received free over-the-air either because: First, such channels are unavailable due to poor signal reception; or second, such channels (such as ESPN, CNN, C-SPAN, and the superstations) cannot be received over-the-air because they are transmitted via satellite. And this basic tier of service is the gateway to programming

like HBO, Showtime and other premium services which are also unavailable to viewers over-the-air.

Consumers are paying billions of dollars in subscription fees because cable television offers access to a package of programming which cannot be duplicated by over-the-air television. I'm sure most consumers would find Prof. Janusz Ordover's description of the cable product market far more accurate than the FCC's:

As a product, basic cable now is available 24 hours a day and seven days a week of all of the following: news (including the specialties of financial, sports, weather, headline, feature, live, local and general national news), sports (or different sports and multiple games within most sports), children's variety, adult variety, religious offerings, shopping (ranging from fashionable clothes to bizarre geegaws), and movies. In terms of the continuous availability of this smorgasbord of programming, no three broadcast stations, even taken as a group, can compare; basic cable offers a distinct product.

Professor Ordover's description of the cable product market comports with antitrust principles, economic theory, and consumer behavior. When defining a product market for the purposes of antitrust law or economic theory, it is axiomatic that a firm may acquire market power by offering consumers a unique package or cluster of services. This cluster analysis is especially appropriate for the cable television industry since, for a single monthly fee, cable offers television households a diverse menu of information and entertainment programs.

Mr. President, not only does the FCC's definition of the cable product market ignore fundamental economic and antitrust precepts, it also ignores consumer reality. If three free broadcast channels are interchangeable with the services available on cable, then rate hikes should be prompting consumers in areas served by over the air television to drop cable and switch to the cheaper substitute.

It is obvious that this is not happening. Although basic rates have jumped over 30 percent since deregulation, subscribers are not dropping cable service. Such stability in the face of significant price increases suggests little cross-elasticity of demand between cable and broadcast. In plain English, Mr. President, the FCC has defined a market substitute for cable—three broadcast channels—which resoundingly fails to correspond to consumer behavior in the market.

We need a definition of effective competion which reflects the realities of the marketplace. The first bill I am introducing today—The Cable Television Subscriber Protection Act of 1989—retains the framework of the 1984 Cable Act, in that cities may only regulate cable rates in the absence of effective competition. This bill does not alter the structure of the 1984 Cable Act. However, the bill legislates a definition of effective competition which will substitute for the definition promulgated by the FCC in 1985.

The bill provides that effective competition for a cable system is present if another multichannel program distributor offers consumers the opportunity to receive in their home a range of programming comparable to that offered by the cable system. This competing multichannel provider could be another cable system, a wireless cable operator, a satellite program distributor, perhaps someday the telephone company, or some other distribution service which delivers multiple channels of video programming to consumers in their homes.

Specifically this legislation provides that a cable system is subject to effective competition if: First, comparable video programming is available to two-thirds of the homes in a particular franchised area from a competing multichannel video programming distributor; and second, 30 percent of the homes in the franchised area which subscribe to multichannel programming services actually rely on this competing multichannel distributor—or combination of competing multichannel distributors—to obtain such programming. In other words, for effective competition to be present, 30 percent of the homes in the franchised area which receive multichannel programming services must be relying on a program distributor other than the cable system in that area.

The first part of this definition ensures that a competitive alternative to cable is available to the bulk of consumers in a particular community. The second part of the definition ensures that consumers view the available competitive alternative—or alternatives—as a viable substitute for cable. The easiest way to measure viability is by examining whether consumers are actually utilizing the alternative.

To ensure that consumers have a choice of real competitive alternatives, the bill also provides that only competing multichannel distributors which are independent of the cable system serving a particular community shall be included in any determination regarding the presence of effective competition. Thus, a cable system would not be able to avoid the objectives of this act by launching a competing cable system or wireless operation in its franchised area. Similarly, dish owners living in areas served by cable who can only get programming from the local cable system, would not be included in any effective competition determination.

The bill exempts from rate regulation cable systems which have achieved less than 30 percent penetration in their franchised area; the rationale for this exemption is that a cable system with such low penetration has little incentive or ability to charge monopoly prices for basic cable service. The bill also provides that a cable operator may go to Federal court to seek judicial review of allegedly erroneous effective competition determinations.

The term "comparable video programming" is similar to language included in the National League of Cities—National Cable Television Association compromise bill which passed the House Energy and Commerce Committee in 1984. The compromise bill passed by the committee included a provision which gave a cable system a right to hook up its service to any multiunit apartment building being served by a private cable system which did not offer equivalent programming. This provision was deleted from the bill which finally passed, though not at the request of either the cable industry or the cities. A discussion of this provision is contained in the committee report which accompanied passage of the 1984 Cable Act.

The notion of equivalent programming discussed in the 1984 Cable Act committee report is similar to the notion of comparable video programming embodied in my bill. As suggested in that report, it is not necessary that the competing multichannel program distributor exactly duplicate the quantity or type of programming available from the incumbent cable system. Comparable video programming means a mix of video entertainment and information program channels which could reasonably be deemed substitutable for the range and categories of program channels offered by the incumbent cable system operator.

Finally, let me say a word about the other cable bill I'm introducing today, the Competition in Cable Television Act of 1989. Thirteen years ago, Congress enacted compulsory copyright license legislation which ensured that the fledgling cable industry would have access to broadcast programming on fair terms. Now Congress must pass a law that will enable the fledgling technologies that compete with cable to get access to cable programming like HBO and Showtime on fair terms.

This bill will require cable programmers which are vertically integrated with the big cable companies—programmers such as HBO, Showtime, Turner Broadcasting System, SportsChannel America—to make their programming available for purchase on fair terms to multichannel video programming distributors, regardless of the kind of technology which these distributors use to effectuate delivery to subscribers. The bill does not mandate the sale of programming to every multichannel distributor. A cable programmer covered under this act is, of

course, permitted to impose reasonable requirements on prospective distributors regarding, for example, financial viability and signal security. The point is that a cable programmer should not be permitted to deny programming to a competing wireless or satellite dish program distributor solely because of the technology being utilized.

In addition, the bill is designed to prevent wholesale price discrimination by cable programmers which favor the large MSO's at the expense of small cable operators and competing noncable technologies. The big cable MSO's have been receiving huge volume price discounts, that are not being passed onto consumers but instead are fueling horizontal and vertical integration in the industry. My bill tracks the Robinson-Patman Act by permitting price differentials which are attributable to differences in cost in the sale, delivery or transmission of such programming. However, it prohibits price differentials which are not cost-justified, but are imposed solely because of the size of a cable system or the type of technology being utilized by a distributor.

Finally, this bill also limits horizontal concentration in the cable industry by prohibiting any one cable company from controlling more than 25 percent of the cable subscribers in the country. Similar limits are in place with respect to control of broadcast stations. These limits will ensure that control over the conduit of information and entertainment into the home does not fall into the hands of just a few vertically integrated MSO's which have the incentive to favor their own program holdings. They will also protect small cable operators from the expansive appetites of the big MSO's. And these limits should help stimulate competition at the local level.

I am pleased to include Senator LIEBERMAN as an original cosponsor of both these bills. As attorney general of Connecticut, Senator LIEBERMAN joined a court challenge to the validity of the FCC's effective competition definition. He has some prior experience in this area and recognizes the need to take action to protect cable television subscribers.

I also am pleased to include Senator PRESSLER as a cosponsor of the Competition in Cable Television Act of 1989. Senator PRESSLER has a similar bill designed to stimulate competition in the delivery of cable programming, and I look forward to working with him on this issue.

I urge my colleagues to support these bills.●

By Mr. BRADLEY (for himself and Mr. HATCH):

S.J. Res. 103. Joint resolution to designate the period commencing February 18, 1990, and ending February 24, 1990, as "National Visiting Nurse Associations Week"; to the Committee on the Judiciary.

NATIONAL VISITING NURSE ASSOCIATIONS WEEK

● Mr. BRADLEY. Mr. President, I rise today to introduce a joint resolution establishing the week of February 18 to 24, 1990, as "National Visiting Nurse Associations Week." This joint resolution, cosponsored by my colleague from Utah [Mr. HATCH], is intended to focus attention on the importance of home health care in the United States.

As many of my colleagues in this body know, Senator HATCH and I have been advocates for expanded home health care for a long time. Experience has demonstrated that providing health services to many kinds of patients in the comfort and security of their homes is a better alternative—physically and psychologically—than hospitalization or nursing home care. In many cases the delivery of health care in the home is more cost effective, and, for the patient, far more comfortable.

The growth of home health care services in the past decade has been nothing short of phenomenal, due, in part, to the Government's encouragement as well as to a general recognition of the need for care in the home.

One organization, the Visiting Nurse Association, recognized that need more than 100 years ago. Originally called the District Nurse Association of Buffalo, NY, the Visiting Nurse Association was founded in 1885. It is the oldest continuously operated home nurse association.

In recognition of the care and support the VNA's have provided we propose to name the week of February 18 to 24, 1990, as the National Visiting Nurse Associations Week.

I think it is important to note that the Visiting Nurse Associations generally remain in the background, doing their work quietly but efficiently, without fanfare. Every year, their trained professionals and community volunteers assist almost 1 million American men, and women, children, and infants. Their services range from neonatal care, to hospice services, to physical therapy, to home IV therapy.

Home care providers have been in the forefront of working with AIDS, cancer, and ventillator-dependent patients.

One of the unique aspects of the VNA's is their strong community support. A board of directors composed of health care professionals and community leaders oversees each association to ensure high standards of care. The United Way, funded by contributions from local businesses, and individuals, is one of the primary financial backers for indigent care services provided by every VNA. United Way also monitors the quality of care provided by local VNA's. VNA services are supported by a combination of individual and corporate contributions within their communities, in addition to some Federal and State Government funding.

Care is the primary responsibility of the VNA's and the quality of that care is one of the hallmarks of the Visiting Nurse Associations.

But the VNA's provide more than health care. They also offer tender loving care, and for that and more they rely on volunteers in each community to assist the professional health care staff. These volunteers are engaged in such activities as cheering up patients with visits, delivering meals on wheels, reading to patients, and running errands. Volunteers do many of the little things that make a patient's stay at home more comfortable and uplift their spirits to make recovery a little speedier.

For all of these reasons, we today introduce this joint resolution commemorating the Visiting Nurse Associations and wish them well as they embark on their second century of service.●

By Mr. DOLE (for himself, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. LUGAR, Mr. INOUYE, Mr. STEVENS, Mr. HUMPHREY, Mr. COCHRAN, Mr. WILSON, Mr. CONRAD, Mr. SIMPSON, Mr. MURKOWSKI, Mr. HELMS, Mr. HEFLIN, Mr. DURENBERGER, Mr. RIEGLE, Mr. SIMON, Mr. HATCH, Mr. WARNER, Mr. LEAHY, Mr. MCCAIN, Mr. ROBB, Mr. BOND, Mr. SANFORD, Mr. BURNS, Mr. COATS, Mr. GARN, Mr. GRASSLEY, Mr. JEFFORDS, Mr. MCCLURE, and Mr. WALLOP):

S.J. Res. 105. Joint resolution to designate October 7 through October 14, 1989, as "National Week of Outreach to the Rural Disabled"; to the Committee on the Judiciary.

NATIONAL WEEK OF OUTREACH TO THE RURAL DISABLED

Mr. DOLE. Mr. President, today I rise to introduce a joint resolution to designate October 7-14, 1989, as National Week of Outreach to the Rural Disabled.

The facts show that one out of every four Americans afflicted with a work disability lives in rural America. Yet, for the most part rehabilitative services are found almost exclusively in urban centers leaving the rural disabled alone and with few resources to call upon. This effect is worsened by the hardships of rural life—rigorous and physically demanding activity is a reality in these areas and is often a measure of productivity. The disabled require more possibilities, and the National Week of Outreach to the Rural Disabled is a step in the right direction.

As my colleagues know, without innovation progress halts. This measure fosters innovation by focusing public

attention upon the plight of the rural disabled and will result in generating new solutions.

Various organizations have helped the rural disabled discover their potential. Our legislative institution is no different. Since 1945, Federal law has designated October as a time to foster public support and interest in the employment of the disabled. This is a tradition that must be continued.

American innovation has a history of turning ideas into reality. A foundation I established and chair, the Dole Foundation for Employment of People with Disabilities, has been providing assistance to people with disabilities in rural areas. Last November I visited one of our beneficiaries, the Heritage Farm in upstate New York, where mentally and developmentally disabled individuals gain farm experience. While touring the facilities I met a 67-year-old man who was working at his first job when most folks are retiring. Seeing the pride he took in his job convinced me that outreach organizations serving rural disabled Americans are investments in human potential.

Another program, initiated by the Future Farmers of America, is known as BRIDGE, Building Rural Initiative for the Disabled through Group Effort. Since virtually every rural community has a local chapter, the FFA has proved to be an effective manager in its effort to mobilize America's farm youth to assist the rural disabled. In addition, BRIDGE has a scholarship program which encourages disabled individuals in rural areas to pursue a higher education.

In addition, Purdue University's Department of Agriculture Engineering planted and grew the national program Breaking New Ground, which provides assistance to disabled farmers who want to continue farming as their fathers did.

With programs like the Dole Foundation, BRIDGE, and Breaking New Ground, Americans can learn how to reach out to their disabled neighbors. By designating a National Week of Outreach to the Rural Disabled, we recognize the extraordinary contributions such programs have made to our Nation's disabled.

Mr. President, I urge my colleagues to support this measure. I ask unanimous consent that the text of the joint resolution be printed in the CONGRESSIONAL RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 105

Whereas approximately 3,400,000 rural Americans of working age are disabled;

Whereas work disabilities are proportionately more prevalent in rural areas than urban areas and the rural disabled are more disadvantaged than their urban counterparts;

Whereas insufficient attention has been given to the unique problems faced by the rural disabled in the United States; and

Whereas there is a need to focus more attention on the unmet needs of the rural disabled, to underscore their potential, and to encourage outreach programs by rural communities to their disabled members: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 7 through October 14, 1989, is hereby designated "National Week of Outreach to the Rural Disabled", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 16

At the request of Mr. CRANSTON, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 16, a bill to require the executive branch to gather and disseminate information regarding, and to promote techniques to eliminate, discriminatory wage-setting practices and discriminatory wage disparities which are based on sex, race, or national origin.

S. 148

At the request of Mr. PRESSLER, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 148, a bill to require the Secretary of the Treasury to mint coins in commemoration of the golden anniversary of the Mount Rushmore National Memorial.

S. 155

At the request of Mr. ARMSTRONG, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 155, a bill to amend the Impoundment Control Act of 1974 to provide for enhanced rescission procedures.

S. 231

At the request of Mr. MOYNIHAN, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 231, a bill to amend part A of title IV of the Social Security Act to improve quality control standards and procedures under the Aid to Families With Dependent Children Program, and for other purposes.

S. 243

At the request of Mr. MCCLURE, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 243, a bill to provide for the extension of regional referral center classification of certain hospitals under the Medicare Program and to continue the payment rates for such hospitals.

S. 247

At the request of Mr. METZENBAUM, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Arkansas [Mr. BUMPERS], the Senator from Colorado [Mr. WIRTH], the Senator from Nebraska [Mr. KERREY], and the Senator from Connecticut [Mr. LIEBERMAN], were added as cosponsors of S. 247, a bill to amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such act, and for other purposes.

S. 253

At the request of Mr. BINGAMAN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 253, a bill to establish a coordinated national nutrition monitoring and related research program, and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of food consumed in the United States, with the provision for the conduct of scientific research and development in support of such program and plan.

S. 255

At the request of Mr. HARKIN, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 255, a bill to authorize appropriations for the Local Rail Service Assistance Program.

S. 344

At the request of Mr. NICKLES, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 344, a bill to require certain work on aircraft to be performed by a domestic repair station.

S. 369

At the request of Mr. BOSCHWITZ, the names of the Senator from Colorado [Mr. WIRTH], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Nebraska [Mr. EXON], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Nebraska [Mr. KERREY], were added as cosponsors of S. 369, a bill to seek the eradication of the worst aspects of poverty in developing countries by the year 2000.

S. 416

At the request of Mr. DOMENICI, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost of living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 419

At the request of Mr. SIMON, the names of the Senator from Connecticut [Mr. DODD], the Senator from New Jersey [Mr. BRADLEY], the Senator from Louisiana [Mr. BREAUX], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 419, a bill to provide for the collection of

data about crimes motivated by race, religion, ethnicity, or sexual orientation.

S. 424

At the request of Mr. THURMOND, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 424, a bill to provide a minimum monthly annuity for the surviving spouses of certain deceased members of the uniformed services.

S. 431

At the request of Mr. NUNN, the names of the Senator from New York [Mr. D'AMATO] the Senator from Maine [Mr. MITCHELL], the Senator from Nevada [Mr. BRYAN], and the Senator from Washington [Mr. ADAMS] were added as cosponsors of S. 431, a bill to authorize funding for the Martin Luther King, Jr., Federal Holiday Commission.

S. 435

At the request of Mr. REID, the name of the Senator from Arkansas [Mr. PRYOR] was added as cosponsor of S. 435, a bill to amend section 118 of the Internal Revenue Code to provide for certain exceptions from certain rules of determining contributions in aid of construction.

S. 439

At the request of Mr. PELL, the name of the Senator from North Carolina [Mr. SANFORD] was added as cosponsor of S. 439, a bill to establish a program of grants to consortia of local educational agencies and community colleges for the purposes of providing technical preparation education and for other purposes.

S. 448

At the request of Mr. SIMON, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 448, a bill to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States.

S. 476

At the request of Mr. SIMON, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 476, a bill to increase the number of refugee admission numbers allocated for Eastern Europe/Soviet Union and East Asia.

S. 488

At the request of Mr. FOWLER, the names of the Senator from Washington [Mr. ADAMS] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 488, a bill to provide Federal assistance and leadership to a program of research, development and demonstration of renewable energy and energy efficiency technologies, and for other purposes.

S. 494

At the request of Mr. DURENBERGER, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 494, a bill to amend the Internal Revenue Code of 1986 to extend for 5 years, and increase the amount of, the deduction for health insurance for self-employed individuals.

S. 654

At the request of Mr. PRYOR, the names of the Senator from North Carolina [Mr. SANFORD], the Senator from Tennessee [Mr. SASSER], the Senator from Vermont [Mr. LEAHY], and the Senator from Louisiana, [Mr. JOHNSTON] were added as cosponsors of S. 654, a bill to amend the Internal Revenue Code of 1968 to provide for the establishment of simplified health arrangements meeting the requirements of section 89, to modify the definition of part-time employee for purposes of section 89, and to simplify the application of section 89.

S. 659

At the request of Mr. SYMMS, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 659, a bill to repeal the estate tax inclusion related to valuation freezes.

S. 691

At the request of Mr. LAUTENBERG, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 691, a bill to require certain information in the National Driver Register to be made available in connection with an application for a license to be in control and direction of a commercial vessel.

S. 702

At the request of Mr. MITCHELL, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 702, a bill to amend title XVIII of the Social Security Act to increase the amount authorized for a patient outcomes assessment research program, to transfer supervisory authority for such program to the Assistant Secretary for Health, to create a practice guidelines development program, to define the missions, priorities, and scope of such programs, to establish an advisory committee for such programs, and for other purposes.

S. 708

At the request of Mr. BRADLEY, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 708, a bill to amend title V of the Social Security Act to promote the integration and coordination of services for pregnant women and infants to prevent and reduce infant mortality and morbidity.

S. 714

At the request of Mr. MCCLURE, the names of the Senator from Arizona [Mr. DECONCINI], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of S. 714, a bill to extend the authorization of the Water Resources Research Act of 1984 through the end of fiscal year 1993.

S. 754

At the request of Mr. PACKWOOD, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 754, a bill to restrict the export of unprocessed timber from certain Federal lands, and for other purposes.

S. 755

At the request of Mr. PACKWOOD, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 755, a bill to authorize the States to prohibit or restrict the export of unprocessed logs harvested from lands owned or administered by States.

S. 763

At the request of Mr. MACK, the names of the Senator from Tennessee [Mr. GORE], the Senator from New York [Mr. D'AMATO], the Senator from Kentucky [Mr. FORD], the Senator from Mississippi [Mr. LOTT], and the Senator from Maine [Mr. COHEN] were added as cosponsors of S. 763, a bill to require a report on the extent of compliance by the Palestine Liberation Organization [PLO] with its commitments regarding a cessation of terrorism and the recognition of Israel's right to exist, and for other purposes.

S. 814

At the request of Mr. DOMENICI, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 814, a bill to provide for the minting and circulation of $1 coins, and for other purposes.

SENATE JOINT RESOLUTION 2

At the request of Mr. DOLE, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Indiana [Mr. COATS], and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Joint Resolution 2, a joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget and tax limitation.

SENATE JOINT RESOLUTION 48

At the request of Mr. HOLLINGS, the names of the Senator from Alabama [Mr. HEFLIN] and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 48, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect Congressional and Presidential elections.

SENATE JOINT RESOLUTION 57

At the request of Mr. PELL, the names of the Senator from South Carolina [Mr. THURMOND] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Joint Resolution 57, a joint resolution

to establish a national policy on permanent papers.

SENATE JOINT RESOLUTION 65

At the request of Mr. SIMON, the names of the Senator from Washington [Mr. GORTON], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 65, a joint resolution designating June 12, 1989, as "Anne Frank Day."

SENATE JOINT RESOLUTION 71

At the request of Mr. HELMS, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Joint Resolution 71, a joint resolution designating April 16 through 22, 1989, as "National Ceramic Tile Industry Recognition Week."

SENATE JOINT RESOLUTION 88

At the request of Mr. WIRTH, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of Senate Joint Resolution 88, a joint resolution to establish that it is the policy of the United States to reduce the generation of carbon dioxide and for other purposes.

SENATE JOINT RESOLUTION 91

At the request of Mr. ROCKEFELLER, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 91, a joint resolution designating April 28, 1989, as "Flight Attendant Safety Professionals' Day."

SENATE JOINT RESOLUTION 95

At the request of Mr. MCCLURE, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Utah [Mr. GARN], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Alaska [Mr. STEVENS], the Senator from New Mexico [Mr. DOMENICI], the Senator from Maine [Mr. MITCHELL], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of Senate Joint Resolution 95, a joint resolution to designate the week of September 10, 1989, through September 16, 1989, as "National Check-Up Week."

SENATE CONCURRENT RESOLUTION 16

At the request of Mr. BOSCHWITZ, the names of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Rhode Island [Mr. PELL], the Senator from Illinois [Mr. DIXON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Delaware [Mr. ROTH], the Senator from Indiana [Mr. LUGAR], the Senator from Rhode Island [Mr. CHAFEE], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of Senate Joint Resolution 16, a concurrent resolution calling for the Government of Vietnam to expedite the release and emigration of all political prisoners.

SENATE CONCURRENT RESOLUTION 25

At the request of Mr. GRASSLEY, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Illinois [Mr. DIXON], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 25, a concurrent resolution expressing the sense of the Congress that the number of refugees admitted to the United States and the appropriation for programs for refugee migration and resettlement should be increased and that the Department of Justice should reestablish the presumption that Jews and members of other religious minorities emigrating from the Soviet Union qualify for refugee status for admission to the United States.

SENATE CONCURRENT RESOLUTION 28—SUBMISSION OF A CONCURRENT RESOLUTION COMMEMORATING THE 50TH ANNIVERSARY OF THE AIRBORNE UNITS

Mr. FORD (for himself, Mr. THURMOND, and Mr. SANFORD) submitted the following concurrent resolution, which was considered and agreed to:

S. CON. RES. 28

Whereas, the United States Army did not have a parachute or glider troop until 1940;

Whereas, on April 25, 1940, the War Department directed the organization of a test platoon of 2 officers and 48 enlisted men to experiment with the airborne concept;

Whereas, on August 16, 1940, the test platoon carried out the first live parachute jump from a B-18 bomber aircraft;

Whereas, on September 16, 1940, the War Department authorized the development of the first parachute battalion;

Whereas, the first Parachute Battalion received the designation of the 501st Parachute Battalion and later moved to the Panama Canal to reinforce defenses;

Whereas, the Airborne Command was activated at Fort Benning, Georgia, following the declaration of war after the Pearl Harbor attack;

Whereas, at Fort Benning, the Airborne Command activated, trained and equipped for combat the parachute and glider units which participated valiantly in all of the major invasions of World War II;

Whereas, paratroops fought in the Korean War, protected our Vice President in Central America, and fought in Vietnam and Grenada;

Whereas, airborne troops participated in all wars since World War II, protected the citizens of this country during a period of unrest in the 1960's, and continue to be on alert status to defend the freedom of the citizens of this country; and

Whereas, the Airborne units of the United States Armed Forces, a distinct segment of the defense force, have the capability of being deployed anywhere in the world on short notice and are able to fight and win: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress congratulates the Airborne units of the United States Armed Forces for 50 years of faithful service to the United States.

SENATE CONCURRENT RESOLUTION 29—RELATING TO THE CLOSING OF CERTAIN RECREATIONAL FACILITIES

Mr. PRESSLER submitted the following concurrent resolution; which was referred to the Committee on Environment and Public Works:

S. CON. RES. 29

Whereas the Corps of Engineers is responsible for the planning, design, construction, operation and maintenance, and real estate activities related to rivers, harbors, and waterways;

Whereas the Corps of Engineers has developed 2,500 recreation areas at Corps of Engineers flood control and multi-purpose projects throughout the United States for the enjoyment and benefit of the general public;

Whereas 20 million Americans utilize these Corps of Engineers recreation areas for activities as varied as swimming, boating, and fishing;

Whereas many communities near Corps of Engineers recreation areas enjoy the benefit of additional tourist traffic leading to a substantial economic impact;

Whereas annual visitation levels at some Corps of Engineers recreation sites have increased in recent years;

Whereas the President's Fiscal Year 1990 budget recommendations to Congress call for a lower level of funding for operation and maintenance of Corps of Engineers facilities; and

Whereas the Corps of Engineers has announced plans to fully or partially close 654 recreation areas in 41 States to make up for the proposed funding reduction: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Assistant Secretary of the Army for Civil Works should refrain from fully or partially closing Corps of Engineers recreation areas or taking any other action resulting in a decline in the availability of Corps of Engineers recreation areas.

Mr. PRESSLER. Mr. President, in these days of ballooning deficits and Federal budget reductions, it's not unusual for a Government agency to scale back some programs. On occasion, these efforts to trim the fat away from the bureaucracy create a more efficient Government.

On the other hand, budget reduction sometimes results in ridiculous, shortsighted proposals. One such proposal involves the Corps of Engineers' attempt to fully or partially close a number of recreation areas throughout the country, including some along the Missouri River in South Dakota.

The corps' budget for operation and maintenance [O&M] of these recreation areas in fiscal year 1989 is $1.37 million. The proposed budget for fiscal year 1990 calls for a reduction to $1.09 million. Because its O&M budget would be cut by nearly 25 percent, the corps has responded by announcing it may close 25 percent of what it calls lower priority recreation areas.

Nationwide, there are over 2,500 corps-operated recreation areas that are enjoyed by nearly 20 million

people annually. The corps proposes to fully or partially close 654 of these areas in 41 States.

In South Dakota, for example, this would be devastating. Forty-nine corps recreation areas in the State are on the chopping block. Sixteen have been scheduled for total closure. The remainder would be partially closed. Considering the substantial contributions made by these areas to tourism alone, such closures are unacceptable.

Today, I am introducing a sense-of-the-Senate resolution to fight the corps' proposal. My bill would express congressional sentiment that the Corps of Engineers should refrain from closing these vital recreation areas.

Since 41 States are affected by the proposed closing of recreation areas, I am confident of substantial congressional support for my initiative. We need to send a clear signal to the Corps of Engineers that its proposal to close recreation areas is unacceptable.

I strongly support balancing the budget. But a proposal such as this could actually end up costing taxpayers more to implement than the amount of savings realized. This is a classic example of the Federal Government being penny-wise and pound-foolish.

I urge our colleagues to support this resolution, and ask unanimous consent that a complete list of all Corps of Engineers' recreation areas scheduled for full or partial closure be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CLOSURE AND PARTIAL CLOSURE OF LOWER PRIORITY RECREATION FACILITIES AT CORPS OF ENGINEERS CIVIL WORKS PROJECTS

State and project name	Name of recreation area	Fiscal year 1990 closure [1]
(Operating and Maintenance, General)		
Alabama		
Alabama-Coosa River	Jones Bluff Pk	Partial.
	Steeles Landing	Do.
	Davis Fr Access	Total.
	Bridgeport Park	Do.
	Black Creek	Do.
	Lower Peach Tre	Do.
	Bridgeport Park	Partial.
	Six Mile Cr Pk	Do.
	Gulletts Bluff	Total.
	W. Bk Fish Area	Partial.
	Clifton Ferry	Do.
Black Warrior and Tombigbee Rivers.	Old Lock No. 7 E	Do.
	Lock No. 4	Total.
	Bankhead Pua	Do.
	Old Lock No. 6	Partial.
	McCarty Ferry	Do.
	Daniel Creek	Total.
	Finches Ferry	Partial.
	Old Lock No. 7 W	Do.
Apalachicola, Chattahoochee and Flints Rivers.	Col Area PK	Total.
Walter F. George Lock and Dam	Damsite L P Al	Partial.
	Hatchechubbee	Do.
West Point Lake	Dewberry	Do.
	Rocky Point	Do.
Arkansas		
Beaver Lake	Starkey	Do.
	War Eagle	Do.
Blue Mountain Lake	Ashley Creek	Total.
	Lick Creek	Do.
Bull Shoals Lake	Bull Shoals	Partial.
	Point Return	Do.
De Queen Lake	Rolling Fork	Total.
	Story Creek	Do.
Dierks Lake	Blue Ridge	Do.
Gillham Lake	Cossatot Point	Do.
Greers Ferry Lake	South Fork	Do.
	Hill Creek	Partial.
	Cherokee	Total.
	Mill Creek	Do.
Lake Dardanelle	Dwight Mission	Do.
	Horsehead	Do.
	O'Kane	Do.
	Cabin Creek	Do.
Lake Greeson	Rock Creek	Do.
	Buckhorn	Do.
	Pikeville	Do.
	Laurel Creek	Do.
	Parker Creek	Partial.
Lake Ouachita	Avant	Total.
	Highway 27	Partial.
	Rabbit Tail	Total.
	Twin Creek	Do.
	Big Fir	Do.
	Buckville	Do.
	Irons Fork	Do.
	Cedar Fourche	Do.
	Spillway	Partial.
McClellan-Kerr Ark Riv Nav Sys	Huffs Island	Do.
	Potoon	Total.
	Cypress Creek	Do.
	Point Remove	Do.
	Wild Goose Bayo	Do.
	Bigelow	Do.
	Dam Site 6 West	Partial.
Millwood Lake	Okay Landing	Total.
	River Run East	Do.
	Paraloma Landing	Partial.
Nimrod Lake	Carden Point	Total.
	Project Point	Do.
Norfork Lake	Howard Cove	Partial.
	Buzzard Roost	Do.
	Tracy	Do.
	Hand Cove	Do.
Ozark Lake	White Oak	Total.
	River Ridge	Do.
California		
Black Butte Lake	Orland Buttes	Do.
Buchanan Dam H.V. Eastman	Codorniz	Do.
Coyote Valley Dam Lake Mend	Bu-Shay	Do.
Dry Creek Warm Springs Lake	Bummerpeak Camp	Do.
	Broken Ridge Cmp	Do.
	Quicksilver Cmp	Do.
	Homestead Camp	Do.
	Loggers Camp	Do.
	Lonepine Camp	Do.
	Black Mtn Camp	Do.
	Buckpasture Cmp	Do.
	Thumb Camp	Do.
	Falconsnest Cmp	Do.
	Rustlers Camp	Do.
	Madrone Pt Camp	Do.
	Islandview Camp	Do.
	Skunk Creek Cmp	Do.
	Sawmill Camp	Do.
Hidden Dam Hensley Lake	Buckridge	Partial.
	Park Hq	Do.
	Hidden View	Do.
Isabella Lake	Live Oak	Total.
	Pioneer	Do.
	Main Dam	Do.
	Boulder Gulch	Do.
	Hungry Gulch	Do.
New Hogan Lake	Acorn Camp West	Do.
	Oak Knoll	Do.
Pine Flat Lake	Island Park	Partial.
Success Lake	Rocky Hill	Total.
Terminus Dam Lake Kaweah	Horse Creek	Do.
Florida		
Jim Woodruff L D Lake Seminole	Damsite W Bank	Partial.
Georgia		
Allatoona Lake	Little River Pt	Total.
	Wilderness Camp	Do.
	Coopers Branch	Partial.
	Allatoona Creek	Total.
	Cherokee Mills	Partial.
	Upper Stamp Prk	Total.
	Little Rvr Pua	Do.
Carters Lake	Ridgeway	Do.
Hartwell Lake	Mary Ann Branch	Do.
	Duncan Branch	Do.
	Cleveland	Do.
	Powder Bag	Do.
Jim Woodruff L D Lake Seminole	Desser	Do.
	Hutchinsons Fry	Do.
	Big Slough	Do.
	Reynoldsville	Do.
J. Strom Thurmond Lake	Below Dam	Do.
	Amity	Do.
	Clay Hill	Do.
	Parkway	Do.
	Leathersville	Do.
	Hesters Ferry	Do.
	Petersburg T&T	Partial.
	Fishing Creek	Total.
	Pistol Creek	Do.
Lake Sidney Lanier	Wahoo Creek	Partial.
	Charleston Park	Do.
	Bethel Park	Total.
	Burton Mill	Partial.
	Bolling Mill	Do.
	Shady Grove Pk	Do.
	Little River	Do.
	Gainesvil Mar R	Total.
	Lumpkin Co Park	Do.
	Long Hollow	Do.
	Big Creek	Partial.
	Little Hall	Do.
Richard B. Russell Lake	PPVC	Total.
Walter F. George L&D	Damsite L P Ga	Partial.
	Riverbend	Do.
West Point Lake	Wehadkee Creek	Total.
	McGee Bridge	Partial.
	Earl Cook	Do.
	Yellow Jacket	Do.
	Autry Park	Total.
Iowa		
Coralville Lake	Sandy Beach	Partial.
	Curtis Bridge	Total.
	Mid River	Do.
Lake Red Rock	Wallashuck East	Do.
	Fifield	Do.
Rathbun Lake	Rolling Cove	Do.
	Bridgeview	Partial.
	Island View	Do.
Saylorville Lake	Walnut Ridge	Total.
	Sandpiper	Partial.
	River Bend	Total.
	Oak Grove	Partial.
	Laurie Park	Total.
	Bob Shetler	Partial.
	Dogwood	Total.
Idaho		
Dworshak	Bruce's Eddy	Do.
	Little North Fk	Do.
	Dent Acres	Partial.
	Magnus Bay	Total.
	Mini-Camps	Partial.
	Picnic Glen	Total.
Lucky Peak	Deer Flat	Do.
	Chimney Rock	Do.
	Macks Creek	Do.
Illinois		
Carlyle Lake	Coles Creek Rec	Do.
Lake Shelbyville	Sullivan/Okaw	Partial.
	Opossum Creek	Total.
	Lone Point	Do.
Mississippi River Pool 13	Ld 13 Rec Area	Partial.
	Fisherman's Corn	Do.
	Park–N–Fish	Total.
Rend Lake	N Sandusky Day	Do.
	N Sandusky Camp	Do.
Indiana		
Brookville Lake	Overlook	Partial.
Cagles Mill Lake	Dam Area	Do.
Cecil M Harden Lake	Picnic Area Dam	Do.
Huntington Lake	Observ Mound	Do.
Mississinewa Lake	do	Do.
Monroe Lake	Overlook Dam	Do.
Patoka Lake	Dam Overlook	Do.
Salamonie Lake	Lagro/Tailwater	Do.
Kansas		
Clinton Lake	Outlet	Do.
	Woodridge	Total.
	Bloomington	Partial.
Council Grove Lake	Dam Site	Total.
	Rickey Cove N	Do.
Fall River Lake	Rock Ridge N	Do.
	Browns Cove	Do.
John Redmond Reservoir	Hartford	Do.
Strawn Ramp	Do.	
Kanopolis Lake	Venango Point	Partial.
Marion Lake	Durham Cove	Total.
Marion Cove	Do.	
Melvern Lake	Turkey Point	Do.
Arrow Rock	Do.	
Milford Lake	Timber Creek	Do.
Outlet Area	Partial.	
School Creek	Total.	
Pearson-Skubitz Big Hill Lake	Cherryvale Park	Partial.
Perry Lake	Sunset Ridge	Total.
Perry		Partial.
Paradise Point		Total.
Old Town		Partial.
Longview		Total.
Pomona Lake	Wolf Creek	Partial.
Carbolyn Park		Total.
Cedar Park	Do.	

[1] Footnote not present.

CLOSURE AND PARTIAL CLOSURE OF LOWER PRIORITY RECREATION FACILITIES AT CORPS OF ENGINEERS CIVIL WORKS PROJECTS—Continued

State and project name	Name of recreation area	Fiscal year 1990 closure [1]
Tuttle Creek Lake	Stockdale	Do.
Wilson Lake	Minooka Park	Partial.
Sylvan Park		Total.
Lucas Park		Partial.
Kentucky		
Barkley Lock and Dam Lake Barkley.	Boyds Landing	Do.
Buzzard Rock		Total.
Eureka		Partial.
Grand Rivers		Total.
Devils Elbow		Partial.
Barren River Lake	Browns Ford	Total.
Dam Area		Partial.
Narrows		Total.
Buckhorn Lake	Confluence	Partial.
Leatherwood		Total.
Carr Fork Lake	Littcarr	Do.
Damsite		Partial.
Cave Run Lake	Stoney Cove	Total.
Dewey Lake	C.E. Shore Area	Do.
Fishtrap Lake	Lick Creek	Do.
Grayson Lake	Damsite	Partial.
Green River Lake	Smith Ridge	Do.
Orv		Total.
Laurel River Lake	Damsite Area	Partial.
Nolin River Lake	Iberia	Total.
Site 1	Do.	
Dog Creek	Do.	
Rough River Lake	Peter Cave	Do.
Laurel Branch	Do.	
Taylorsville Lake	Dam Area	Do.
Wolf Creek dam, Lake Cumberland.	Fall Creek	Partial.
Cumberland Pt	Do.	
Waitsboro	Do.	
Fishing Creek	Do.	
Louisiana		
Ouachita-Black	Finch Bayou	Total.
Jonesville L&D	Do.	
Catahoula Lake	Do.	
Prairion Bayou	Do.	
Maryland		
Jennings Randolph Lake	Maryland Overlo	Do.
Youghiogheny River Lake	Selbysport	Do.
Minnesota		
Lac Qui Parle Lakes Minn Riv	Marsh Lake	Do.
	Lac Qui Parle	Do.
Lake Traverse and Bois De Sioux.	Mustinka Park	Do.
	Reservation Dam	Do.
	Browns Valley	Do.
Mississippi R. Between Mo and Mn.	Milstone	Do.
Res. at Headwaters of Miss Riv	Winibigoshish	Do.
	Pokegama Lake	Do.
Missouri		
Bull Shoals Lake	Spring Creek	Partial.
	Kissee Mills	Total.
Clarence Cannon Dam and Mark	Ray Behrens	Do.
Clearwater Lake	Bluff View	Partial.
	Webb Creek	Do.
Harry S. Truman Dam and Res	Brush Creek	Total.
	Sac River	Do.
	Berry Bend	Partial.
	Sparrowfoot	Total.
	Talley Bend	Do.
Pomme De Terre Lake	Quarry Point	Do.
	Pittsburg Landg	Do.
	Bolivar	Partial.
Stockton Lake	Master	Total.
	Ruark Bluff	Partial.
	Orleans Trail	Do.
	High Point	Total.
	Hawker Point	Partial.
	Old Mill	Total.
	Mutton Creek	Partial.
Table Rock Lake	Cow Creek	Total.
	Joe Bald	Do.
	Eagle Rock	Do.
Mississippi		
Okatibbee Lake	East Bank	Partial.
	Gin Creek	Do.
Montana		
Fort Peck Project	Nelson Creek	Total.
	Devil's Creek	Do.
	Duck Creek	Do.
	Bear Creek	Do.
North Carolina		
B. Everett Jordan Dam and Lake	Poe's Ridge	Do.
Cape Fear R. above Wilmington	Lock and Dam No. 2	Partial.
	Lock and Dam No. 1	Do.
	W O Huske L&D	Total.
John H. Kerr Dam and Reservoir	Grassy Creek	Partial.
W. Kerr Scott Dam and Reservoir.	Dam Site Park	Do.
	Warrior Ck Park	Do.
North Dakota		
Garrison Dam Lake Sakakawea	Little Missouri	Do.
	Downstream	Do.
	Riverdale	Total.
	Douglas Creek	Partial.
	Intake Picnic	Total.
	Spillway Overlk	Do.
	Wolf Creek	Partial.
	Deepwater Creek	Total.
Homme Dam and Lake	Spillway Overlo	Do.
Lake Ashtabula and Baldhill Dam.	Old Highway 26	Do.
	Katie Olson's	Do.
Oahe Dam Lake Oahe	Cannon Ballriv	Do.
	Kimball Bottom	Partial.
	Winnona/Cattail	Do.
	Badger Bay	Total.
	Little Heart	Do.
	Ft. Rice	Partial.
Nebraska		
Harlan County Lake	North Cove	Total.
	Outlet South	Do.
New Mexico		
Cochiti Lake	Tetilla Peak	Partial.
Ohio		
Alum Creek Lake	Damsite	Do.
Berlin Lake	Mill Cr Camping	Do.
	German Church	Total.
Caesar Creek Lake	Corps Rec Area	Partial.
Clarence J. Brown Dam	Dam Area	Total.
Deer Creek Lake	Damsite	Partial.
Delaware Lake	do	Do.
Mohawk Lake	do	Do.
Mosquito Creek Lake	Dam Site Picnic	Do.
	Lakeview Picnic	Do.
	Tailwater Acces	Total.
	Mosq Cr Picnic	Partial.
North Branch Kokosing River	Damsite	Do.
Paint Creek Lake	do	Do.
Tom Jenkins Dam and Burr Oak	do	Do.
West Fork Mill Creek Lake	Dam Area	Total.
William H. Harsha Lake	W.H. Harsha	Partial.
Oklahoma		
Birch Lake	Twin Cove Point	Do.
Broken Bow Lake	Panther Creek	Total.
Canton Lake	Fairview	Do.
	Longdale	Do.
Chouteau Lock and Dam	Pecan Park	Do.
Copan Lake	Osage Plains	Do.
Denison Dam—Lake Texoma	Willafa Woods	Partial.
	Hickory Creek	Do.
	Lebanon Resort	Total.
	Roads End	Do.
	Little Glasses	Partial.
	Butcher Pen	Total.
Eufaula Lake	Cardinal Point	Do.
	Hickory Point	Do.
	Juniper Point	Do.
	Holiday Cove	Do.
	Crowder Point	Do.
Fort Gibson Lake	Jackson Bay	Partial.
	Wahoo Bay	Total.
	Longbay Landing	Partial.
	Chouteau Bend	Do.
	Mission Bend	Total.
Fort Supply Lake	Supply Park	Do.
Great Salt Plains Lake	South Spillway	Do.
Heyburn Lake	Dam Site	Do.
Hugo Lake	Rattan Landing	Do.
	Kiamichi Park	Partial.
Hulah Lake	Caney Bend	Total.
	Skull Creek	Do.
	Boulanger Landg	Do.
Kaw Lake	Washunga Bay	Do.
	McFadden Cove	Partial.
	Bear Creek Cove	Do.
	Traders Bend	Total.
Keystone Lake	Old Mannford	Do.
	Keystone Ramp	Do.
	Cowskin Bay No	Partial.
	Osage Point	Total.
	Cowskin Bay S	Do.
Newt Graham Lock and Dam	Rocky Point	Do.
Oologah Lake	Double Creek	Do.
	Winganon Ramp	Do.
Optima Lake	Angler Point	Do.
	Overlook Park	Do.
Pine Creek Lake	Lost Rapids	Do.
	Billybellshoals	Do.
Robert S. Kerr Lake	Keota Landing	Do.
	Sallisaw Creek	Do.
	Short Mt. Cove	Do.
Skiatook Lake	Bull Creek	Do.
Tenkiller Ferry Lake	Dam Site	Do.
	Carters Landing	Do.
W.D. Mayo Lock and Dam	Wilson Rock	Do.
Waurika Lake	Wichita Ridge	Do.
	Moneka Park	Do.
Webbers Falls Lock and Dam	Hopewell Park	Do.
	Arrowhead Point	Do.
Wister Lake	Damsite South	Do.
Oregon		
Cottage Grove Lake	Shortridge Park	Do.
Fall Creek Lake	Upper End Area	Do.
Fern Ridge Lake	Kirk Park	Do.
Green Peter-Foster Lakes	Andrew Wiley Pk	Partial.
McNary	Sand Station	Total.
Pennsylvania		
Conemaugh River Lake	Picnic Area	Partial.
Cowanseque Lake	South Overlook	Total.
	Visitor Center	Do.
Crooked Creek Lake	Dam Site	Partial.
	Cr Cr Camping	Do.
East Branch Clarion River Lake	Outflow Access	Total.
	E Br Campground	Partial.
Kinzua Dam and Allegheny Res	Big Bend Outflo	Do.
	Big Bend Ovrlk	Do.
Loyalhanna Lake	Bush Area	Do.
	Dam Picnic Area	Do.
Mahoning Creek Lake	Dam Picnic Area	Do.
	Outflow Fishing	Do.
Raystown Lake	Corbin's Island	Total.
	Ridenour Overlo	Do.
	Weaver's Falls	Do.
Shenango River Lake	Clark Area	Do.
	Mahaney Pu Area	Partial.
	Shenango Rec A	Do.
	Bayview Boat Ac	Total.
	Parkers Landing	Do.
	Mercer Rec Area	Do.
Tioga-Hammond Lakes	Hammond Overloo	Do.
Tionesta Lake	Lackey Flats	Do.
	Outflow Camp Lb	Partial.
	Glasner Run	Total.
	Tionesta Rec A	Partial.
Union City Lake	Overlook	Total.
	Dam Site	Do.
Woodcock Creek Lake	Bossard Nat A	Partial.
	Fishing Access	Do.
	Overlook Area	Do.
	Dam Site-Rt Bk	Do.
Youghiogheny River Lake	Yough Rec Area	Total.
	Outflow Camping	Do.
South Carolina		
Hartwell Lake	Honea Path	Do.
	Cove Inlet	Do.
	Tabor	Do.
	Island Point	Do.
	Townville	Do.
	Asbury	Do.
	Jarrett	Do.
	Riverbend	Do.
	Apple Island	Do.
	Durham	Do.
	Double Spring	Do.
J. Strom Thurmond Lake	Hawe Creek	Do.
	Scotts Ferry	Do.
	Leroys Ferry	Do.
	Mt. Pleasant	Do.
South Dakota		
Big Bend Dam Lake Sharpe	Lower Brule	Do.
	North Shore	Partial.
	Counselor Creek	Total.
	Iron Nation	Do.
	Fort Thompson	Partial.
	Tailrace	Do.
	Spillway	Total.
	Cedar Creek	Partial.
Coldbrook Lake	Coldbrook	Do.
Cottonwood Springs Lake	Cottonwood Sprg	Do.
Ft Randall Dam Lk Francis CSE	South Wheeler	Do.
	North Point	Do.
	Tourgeon Well	Total.
	Elm Creek	Do.
	Chamberlain W	Partial.
	South Scalp	Do.
	Randall Creek	Do.
	North Wheeler	Do.
	White Swan	Do.
	Tailrace	Total.
	Pease Creek	Partial.
	Dude Ranch	Total.
	Whetstone Bay	Partial.
	Joe Day Bay	Do.
	American Creek	Do.
	South Shore	Do.
	Spillway	Do.
Gavins Point Project	Pierson Ranch	Total.
	Nebr Tailwaters	Partial.
Lake Traverse and Boise De Sioux.	White Rock Dam	Total.
Oahe Dam Lake Oahe	Little Bend	Partial.
	West Pallok	Do.

CLOSURE AND PARTIAL CLOSURE OF LOWER PRIORITY RECREATION FACILITIES AT CORPS OF ENGINEERS CIVIL WORKS PROJECTS—Continued

State and project name	Name of recreation area	Fiscal year 1990 closure [1]
	Bushs Landing	Do.
	Dowstrm North	Total.
	Beaver Ck	Partial.
	Foster Bay	Do.
	Downstrm South	Do.
	Vandervorstabay	Total.
	Minneconjou Cr	Partial.
	Walth Bay	Do.
	Bowdle Beach	Total.
	Thomas Bay	Partial.
	Shaw Creek	Do.
	East Shore	Do.
	Blue Blanket	Total.
	Chantier Creek	Do.
	Indian Creek	Partial.
	Grand River	Total.
	Hazelton	Partial.
	Peoria Flats	Do.
Tennessee		
Barkley Lock and Dam—Lake Barkley.	Saline Creek	Total.
Center Hill Lake	Johnsons Chapel	Partial.
	Hurricane Brdge	Do.
	Cove Hollow	Total.
	Holmes Creek	Partial.
Cheatham Lock and Dam	Johnson Creek	Do.
	Sams Creek	Total.
	Che Dam L Bank	Partial.
	Bull Run Creek	Total.
Cordell Hull Dam and Reservoir	Indian Creek	Do.
	Salt Lick Creek	Partial.
	McClure Bendwma	Total.
Dale Hollow Lake	Willow Grove	Do.
	Cove Creek	Partial.
	Pleasant Grove	Do.
	Obey River Park	Do.
J. Percy Priest Dam and Reservoir.	Fall Creek	Total.
	Gregory Mill	Do.
	Poole Knobs	Partial.
	Cook	Do.
	Four Corners	Do.
	Lamar Hill	Total.
Old Hickory Lock and Dam	Old Union	Do.
	Lock 4	Do.
	Second Creek	Do.
	Sandy Chapel	Do.
	Dickerson Chpl	Do.
	Walton Ferry	Do.
	Shutes Branch	Partial.
	Lone Branch	Total.
	Liberty Branch	Do.
Texas		
Bardwell	Love	Do.
	Little Mustang	Do.
Belton	Leona	Do.
	Rogers	Do.
	White Flint	Do.
	Owl Creek	Do.
	Miller Springs	Do.
Benbrook	Longhorn	Do.
Canyon	Jacobs	Partial.
	North Park	Total.
Denison Dam—Lake Texoma	Highport	Partial.
	Paradise Cove	Total.
Granger	Friendship	Do.
	Willis Creek	Do.
Grapevine	Meadowmere	Do.
	Rockledge	Do.
Hords Creek	Friendship	Do.
Lake Georgetown	Russel	Do.
Lake O' the Pines	Cedar Springs	Do.
	Johnson Creek	Partial.
	Alley Creek	Do.
	Hurricane	Total.
	Shady Grove	Do.
Lavon	Pebble Beach	Do.
	Caddo	Do.
	Elm Creek	Do.
	Twin Groves	Do.
	Brockdale	Do.
	Bratonia	Do.
Lewisville	Westlake	Do.
	East Hill	Do.
	Arrowhead	Do.
	Copperas Branch	Do.
Navarro Mills	Wolf Creek	Do.
O.C. Fisher	Highland Range	Do.
Pat Mayse Lake	Pat Mayse East	Do.
	Lamar Point	Do.
Proctor	High Point	Do.
	Promontory	Partial.
Sam Rayburn	R. McAllister	Total.
	Rayburn	Do.
	Jackson Hill	Do.
	Monterrey	Do.
	Etoile	Do.
	Marion Ferry	Do.
Somerville	Yegua	Do.
Stillhouse Hollow Lake	Cedar Gap	Do.
	Stillhouse	Do.
Town Bluff	Campers Cove	Do.
	Bluff View	Do.
	Sandy Creek	Do.
Waco	Speegleville	Partial.
	Koehne	Total.
Whitney	Cedar Creek	Do.
	Walling Bend	Do.
	Plowman	Do.
	Soldier's bluff	Do.
	Steele Creek	Do.
Wright Patman	Oak Park	Do.
	Intake Hill	Do.
	Spillway Park	Do.
	Herron Creek	Do.
	North Shore	Do.
Virginia		
John H. Kerr Dam & Reservoir	Buff Spgs Wside	Do.
	Eagle Point	Do.
	Longwood	Do.
	Eastland Creek	Do.
	Staunton View	Do.
	Ivy Hill	Do.
	Rudds Creek	Do.
	Buffalo Rec Ar	Do.
	Palmer Point	Total.
John W Flannagan Dam and Philpott Lake	Lower Twin	Do.
	Jamison Mill	Do.
Washington		
Ice Harbor	Matthews	Do.
	Levey Park	Do.
John Day L&D	Cliffs Park	Do.
Lower Granite	Wawawai Landing	Do.
	Knoxway	Do.
	Offield Landing	Do.
McNary	McNary WRA	Partial.
	Madame Dorian	Total.
The Dalles L&D	Spearfish	Do.
Wisconsin		
Eau Galle River Lake WI	Lousy Creek Ac	Do.
	Northwest Area	Do.
	Northwest Area	Do.
	Dam Outlet	Partial.
Mississippi R. Between Mo & Mn.	Jays Lake	Total.
West Virginia		
Beech Fork Lake	Damsite	Partial.
Bluestone Lake	Downstream No. 2	Total.
Burnsville Lake	Falls Mill Area	Do.
	Bulltown Villge	Do.
East Lynn Lake	Lick Creek	Do.
R.D. Bailey Lake	Big Branch Area	Do.
Summerville Lake	Salmon Run	Do.
Sutton Lake	Baker Run/Mill	Do.
Tygart Lake	Dam Picnic Area	Partial.
(Flood Control, Mississippi River and Tributaries)		
Mississippi		
Arkabutla Lake	Plantation Pt	Total.
	South Abutment	Partial.
Enid Lake	Chickasaw Hill	Total.
	Long Branch	Do.
	Outlet Ch River	Do.
	Bynum Creek	Do.
Grenada Lake	Wolf Creek	Do.
	North Abutment	Do.
	Cape Retreat	Do.
	Skuna Turkey	Do.
	Piney Woods	Do.
	Upper Torrance	Do.
	Graysport North	Do.
	Upper Yalobusha	Do.
Sardis Lake	Pats Bluff	Partial.
	Shady Cove	Total.
	Hays Crossing	Do.
	Clear Creek	Partial.
	Thompson Ldg	Total.
	Lower Lake	Partial.
	Graham Lake	Total.

[1] The following definitions were used in developing the total/partial closing list:

Total closure: One of our first actions will be to offer state and local governments the opportunity to assume responsibility for recreation areas subject to closure. When recreation areas must be closed, facilities such as movable picnic tables may be removed, rest rooms and other permanent facilities mothballed, and parking areas closed. However, the public will continue to have the same general pedestrian access they have to the Federal reservation at large.

Partial closure: Partial closures involve closing a portion of the facilities within a recreation area. For example, if an area has a low use picnic facility and a boat launch ramp, the launch ramp might remain available after the picnic area is closed.

SENATE RESOLUTION 107—COMMENDING ELIZABETH (BETH) SHOTWELL-VALEO FOR HER SERVICE TO THE SENATE

Mr. MITCHELL (for himself, Mr. BYRD, and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 107

Whereas, Elizabeth (Beth) Shotwell-Valeo will retire from the U.S. Senate on April 30, 1989,

Whereas, Beth Shotwell-Valeo has served with dedication on the staff of the U.S. Congress for 28 years, of the U.S. Senate for nearly 26 years, and as Chief Clerk of the Democratic Policy Committee for 17 years,

Whereas, Beth Shotwell-Valeo has performed her duties under three different Senate Democratic leaders with great competence, dedication, and efficiency,

Whereas, Beth Shotwell-Valeo, in carrying out her responsibilities, has gained the trust and respect of the people with whom she has worked: Now, therefore, be it

Resolved, That the U.S. Senate hereby commends Beth Shotwell-Valeo for her faithful and outstanding service to the Senate and the Nation and expresses its deep appreciation for upholding the high standards and traditions of the staff of the U.S. Senate.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Beth Shotwell-Valeo.

Mr. MITCHELL (for himself, Mr. BOSCHWITZ, Mr. PELL, Mr. DOLE, Mr. HELMS, Mr. CHAFEE, Mr. GRASSLEY, Mr. MACK, Mr. GRAHAM, Mr. HEFLIN, Mr. KERRY, Mr. BREAUX, Mr. SHELBY, Mr. COATS, and Mr. MURKOWSKI) submitted the following resolution; which was placed on the calendar.

Senate Resolution 108, concerning the situation in Lebanon will appear in a later issue.

AMENDMENTS SUBMITTED

FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT

SPECTER (AND OTHERS) AMENDMENT NO. 49

Mr. SPECTER (for himself, Mr. ADAMS, Mr. FOWLER Mr. WARNER, and Mr. GRAMM) proposed an amendment to the bill (S. 774) to reform, recapitalize, and consolidate the Federal deposit insurance system, to enhance the regulatory and enforcement powers of Federal financial institutions regulatory agencies, and for other purposes, as follows:

At the end of the bill insert the following:

Since the Congress of the United States appropriated $50 million between fiscal year 1986 and fiscal year 1989 to construct a correctional treatment facility in the District of Columbia;

Since the construction of a 800-bed correctional treatment facility for the District of

Columbia has been delayed because of pending litigation preventing the destruction of a building on the grounds of D.C. General Hospital which currently occupies the site of the proposed correctional treatment facility, pending a determination of whether the building is eligible for the National Register.

Since the Congress in September 1987, suspended all construction activities pending the outcome of an archaeological survey and alternative site review. And that the Congress, in May 1988, informed the District of Columbia that it could proceed with this project;

Since the problem of crime generally and drug-related crime specifically has accelerated in Washington, DC, so that Washington has been referred to as the "murder capital of the United States" with 150 homicides having been committed in the District of Columbia since January 1, 1989;

Since a major Federal effort has been initiated on the drug-related crime problem in Washington, DC, as articulated on April 10, 1989, by Attorney General Richard Thornburgh, Housing and Urban Development Secretary Jack Kemp and Director of National Drug Control Policy William Bennett;

Since, the Mayor of Washington, DC, Marion Barry, Jr., in prepared testimony before the District of Columbia Subcommittee of the Appropriations Committee on April 17, 1989, at page six stated:

"Finally, in the area of emergency assistance we request the help of the Committee to lead an expedited effort to clearly (perhaps legislatively) state the Sense of the Congress that the long delayed 800 bed prison construction project in Southeast Washington is a local initiative being undertaken with a special federal appropriations. Currently, construction is delayed because of a court interpretation that the project is a federal initiative and, therefore, subject to review under federal historical preservation laws. Clarification by the Congress should be helpful to the Court in deciding that the project is local and need not be delayed further."

Since, at a hearing on April 17, 1989, Mayor Barry reiterated his request for a sense-of-the-Congress resolution as an aid to assist the District of Columbia in the construction of the 800-bed correctional treatment facility;

Since, the issue is in litigation in the case of *Flossie E. Lee, et al. vs. Richard Thornburgh, et al.* (89-0421), U.S. District Court for the District of Columbia, with a hearing scheduled for May 18, 1989.

Since, the Congress expresses no opinion on any underlying legal issue which is the sole province of the Court, but does express its sense of urgency that the 800-bed correctional treatment facility be constructed at the earliest possible time consistent with other provisions of law.

Now, therefore, be it declared that it is the sense of the Congress that the 800-bed local correctional treatment facility be completed at the earliest possible date to assist against crime generally and drug-related crime specifically.

Be it further declared that Mayor Barry and all other officials of the District of Columbia be urged to move ahead as expeditiously as possible with all aspects of the local program directed against crime generally and drug-related crime specifically including but not limited to the construction of local prison and jail space including the 800-bed prison.

KERREY (AND EXON) AMENDMENT NO. 50

Mr. KERREY (for himself and Mr. EXON) proposed an amendment to the bill S. 774, supra, as follows:

Beginning with page 322, line 11, strike all through page 323, line 17, and insert the following:

"(d) OVERSIGHT BOARD.—

"(1) MEMBERSHIP.—

"(A) IN GENERAL.—The Oversight Board of the Resolution Trust Fund shall serve as the board of directors thereof, and shall consist of—

"(i) 7 nongovernment members, and

"(ii) 3 ex officio members.

"(2) EX OFFICIO MEMBERS.—The 3 ex officio members shall be—

"(A) the Secretary of the Treasury,

"(B) the Chairman of the Federal Reserve Board, and

"(C) the Attorney General of the United States.

"(3) NONGOVERNMENT MEMBERS.—

"(A) IN GENERAL.—The 7 nongovernment members shall be appointed by the President, by and with the advice and consent of the Senate for terms of 5 years. Not more than one of such members shall be selected from any one Federal Reserve district. Not more than 4 of such members may be from the same political party.

"(B) QUALIFICATIONS.—The nongovernment members shall have experience in banking, financing, real estate, and business management.

"(4) CHAIRMAN.—The President shall appoint a Chairman from the nongovernment members. The Chairman shall have the business experience necessary to govern an orderly disposition of the assets held by the Corporation. The Chairman, at the time of his appointment may not hold a position other than as a member of the board of directors of a financial institution, real estate firm, or trade association.

"(5) TERMS OF OFFICE, SUCCESSION, DELEGATION, AND VANCANCIES.—The term of each member shall expire when the Resolution Trust Corporation is terminated. Vacancies on the Oversight Board shall be filled in the same manner as the vacant position was previously filled.

"(6) COMPENSATION.—The nongovernment members of the Oversight Board shall be compensated in the same manner as the members of the Board of Governors of the Federal Reserve System under section 10 of the Federal Reserve Act.

On page 323, line 18, strike "(6)" and insert "(7)".

On page 324, redesignate paragraphs (7) through (9) as paragraphs (8) through (10), respectively.

On page 324, line 10, strike "3" and insert "5".

HEINZ AMENDMENT NO. 51

Mr. HEINZ proposed an amendment to the bill S. 774, supra, as follows:

On page 502, line 8, strike "and".

On page 502, line 10, strike the period and insert a semicolon.

On page 502, between lines 10 and 11, insert the following:

(3) by inserting after "Section 201 (relating to bribery)," the following: "section 215 (relating to receipt of commissions of gifts for providing loans),"; and

(4) by inserting after "section 894 (relating to extortionate credit transactions)," the following: "sections 1004, 1005, 1006, 1007, and 1014 (relating to fraud and false statements),".

GRAHAM AMENDMENT NO. 52

Mr. GRAHAM proposed an amendment to the bill S. 774, supra; as follows:

On page 351, line 20, strike the semicolon and "or" and insert a period.

On page 351, beginning with line 21, strike all through line 22.

On page 364, line 8, after the period, insert the following: "The Secretary of the Treasury shall purchase any obligation issued by the Funding Corporation under this paragraph, and for such purpose, is authorized to use the proceeds of obligations issued under chapter 31 of title 31, United States Code."

On page 367, line 15, strike "or".

On page 367, line 18, strike the end period and insert "; or".

On page 367, between lines 18 and 19, insert the following new subparagraph:

"(C) purchase direct obligations of the United States."

Beginning with page 367, line 19, strike all through page 369, line 21.

On page 371, line 25, strike "Except as provided in subsection (f)(7)(B), the" and insert "The".

Beginning with page 375, line 22, strike all through page 376, line 9, and redesignate paragraph (5) on page 376 as paragraph (4).

On page 381, between lines 14 and 15, insert the following new sections:

SEC. 506. BUDGETARY TREATMENT.

For the purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, to the extent that this subtitle has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, such transfer is a necessary (but secondary) result of a significant policy change.

SEC. 507. ISSUANCE OF BONDS TO THE RESOLUTION FUNDING CORPORATION.

(a) IN GENERAL.—Subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 3114. Issuance of bonds to the Resolution Funding Corporation

"The Secretary of the Treasury may—

"(1) issue bonds of the United States Government to the Resolution Funding Corporation established by section 21B of the Federal Home Loan Bank Act, and

"(2) buy, redeem, and make refunds of such bonds under section 3111 of this title.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new item:

"3114. Issuance of bonds to the Resolution Funding Corporation.".

(2) Section 3108 of title 31, United States Code, is amended by striking out "and 3105-3107" and inserting in lieu thereof ", 3105-3107, and 3114".

(3) Subsection (a) of section 3121 of title 31, United States Code, is amended by inserting "and 3114" after "3102-3104".

EXON (AND KERREY) AMENDMENT NO. 53

Mr. EXON (for himself and Mr. KERREY) proposed an amendment to the bill S. 774, supra, and follows:

On page 470, after line 20, insert the following:

SEC. 969. AUDIT REQUIREMENT.

Section 202(a) of the Federal Credit Union Act (12 U.S.C. 1782(a)) is amended by adding at the end thereof the following new paragraph:

"(6) AUDIT REQUIREMENT.—

"(A) IN GENERAL.—Before the end of the 120-day period beginning on the date of the enactment of the FIRRE Act, and notwithstanding any provision of Federal law, the law of any State, or the constitution of any State, the Board shall prescribe, by regulation, audit standards which require an outside, independent audit of any insured credit union by a certified public accountant for any fiscal year (of such credit union)—

"(i) for which such credit union has not conducted an annual supervisory committee audit;

"(ii) for which such credit union has not received a complete and satisfactory supervisory committee audit; or

"(iii) during which such credit union has experienced persistent and serious record-keeping deficiencies, as determined by the Board.

"(B) UNSAFE OR UNSOUND PRACTICE.—The Board may treat the failure of any insured credit union to obtain an outside, independent audit for any fiscal year for which such audit is required under subparagraph (A) as an unsafe or unsound practice within the meaning of section 206(b).".

At the end of the part of the table of contents relating to subtitle C of title IX, insert the following:

"Sec. 969. Audit requirement.".

NICKLES AMENDMENT NO. 54

Mr. NICKLES proposed an amendment to the bill S. 774, supra; as follows:

On page 157, between lines 14 and 15, insert the following:

SEC. . DISCRETIONARY EXPANSION OF FDIC ASSESSMENT BASE.

(a) IN GENERAL.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding a new subsection as follows:

"(m)(1) Notwithstanding subsection (1)(5) of this section, the Board of Directors may, after consultation with the Comptroller of the Currency and the Board of Governors of the Federal Reserve System and after taking into account the economic effects of such action, find and prescribe by regulation that obligations described in such paragraph or in subparagraphs (A) or (B) of such subsection are deposit liabilities.

"(2) The annual assessment rate for obligations described in paragraph (1) may be less than the assessment rate provided under section 7 of this Act."

(b) CONFORMING AMENDMENTS.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is further amended by redesignating the existing subsection "(m)" as "(n)" and redesignating the remaining subsections accordingly.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, April 18, 1989, at 10 a.m. to hold a hearing to review and evaluate the numerous child care proposals under the committee's jurisdiction.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITIES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs, be allowed to meet during the session of the Senate today, Tuesday, April 18, 1989, at 10:30 a.m. to conduct hearings on legislation making authorizations for the Securities and Exchange Commission, and related matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, April 18, 1989, at 9:30 a.m., to hold a hearing on modification of the McCarran-Ferguson Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on April 18, 1989, at 2 p.m. to hold a hearing on motor carrier safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, April 18, beginning at 9:30 a.m., to consider the nomination of William Rosenberg, nominated by the President to be Assistant Administrator for Air and Radiation, U.S. Environmental Protection Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, April 18, beginning at 10 a.m., to conduct a hearing on the health effects of air pollution.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, April 18, 1989, to vote on the nominations of Jack Parnell to be Deputy Secretary of Agriculture, and Richard Crowder to be Under Secretary of Agriculture for International Affairs and Commodity Programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 18, 1989, at 2 p.m. to hold hearings on treaties relating to mutual legal assistance in criminal matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on April 18, 1989, at 10 a.m. to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on April 18, 1989, at 9 a.m. in open session with the possibility of an executive session following, to receive testimony on the military strategy and operational requirements for NATO defense and rapid reinforcement.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, April 18, 1989, at 2 p.m. to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 18, 1989, at 9:30 a.m. to receive testimony from Secretary of State Baker on the for-

eign assistance and State Department authorization bills and to vote on pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TERRY ANDERSON

● Mr. MOYNIHAN. Mr. President, today marks the 1,494th day of captivity for Terry Anderson in Beirut.

I ask that an article from the January 20, 1988, Christian Science Monitor providing a profile of Peggy Say, Terry Anderson's sister, be printed in the RECORD.

The article follows:

[From the Christian Science Monitor, Jan. 20, 1988]

SISTER OF HOSTAGE ANDERSON URGES ACTION

(By Clint Jones)

BOSTON.—From her home in Batavia, N.Y., Peggy Say feels a certain closeness today with the family and friends of Anglican Church envoy Terry Waite on the one-year anniversary of his captivity in Lebanon.

She had similar feelings on March 16, 1986, a year after Terry Anderson, her brother and the Associated Press's chief Middle East correspondent, was taken hostage in Beirut. "I don't understand why he [Mr. Anderson] is not home. I don't understand why the others are not home," Mrs. Say says.

It is only a matter of weeks before Anderson's family and friends will solemnly mark the third anniversary of his captivity. Anderson has been a hostage longer than any of the other Americans being held captive in Lebanon.

Say is frustrated that the hostage situation is viewed as a political issue rather than a human rights issue. Say watched the television coverage of Soviet leader Mikhail Gorbachev's visit to Washington, and saw the groups of Americans demonstrating and demanding freedom for Soviet Jews. She supports such protests, she says, but wonders why Americans aren't outraged by the treatment of American hostages in Lebanon.

"There are eight Americans that are being deprived of their human rights, living in basements, chained and blindfolded most of the time. I can't understand why there seems to be almost a lack of concern," says Say. She presumes part of the answer is that Americans are simply tired of hostage situations.

Say expresses renewed frustration with the Reagan administration. Before the disclosure of United States arms sales to Iran, Say complained vociferously that the administration wasn't doing anything to free the hostages. After the scandal broke, Say and the families of other hostages were told there was a new policy concerning the hostages.

They were told nothing would be done either overtly or covertly to gain the hostages' release and the families would never again have access to government officials other than through an appointed State Department liaison.

"I'm given bare bones since the Iran-contra scandal." In a soft but firm voice, Say adds, "I didn't sell arms to Iran, nor did I persuade President Reagan to, but I'm certainly being punished as if I had." Say and other relatives of the hostages received hate mail from some Americans who blamed the families for pressuring the administration into the Iran arms sales.

Say says she simply cannot accept the State Department contention that everything that can be done is being done, and that the hostage situation calls for quiet diplomacy. She doubts that would be the case if another plane load of Americans was taken hostage. "I saw the TWA hijacking in 1985 resolved in 17 days," says Say. She notes the terrorists' initial demand in that instance was the same one being made for the release of Anderson and other Americans, the release of 17 terrorists in Kuwait. Eventually the TWA passengers were released, in exchange for Palestinians being held by Israel.

"People don't see this current hostage situation in the context of other hostage situations. No one ever criticized the way the TWA or Achille Lauro were resolved," Say says. In October 1985, Palestinian guerrillas seized the Achille Lauro, an Italian liner, and demanded the release of Palestinian prisoners. One person was killed.

Say wants the administration to negotiate with the terrorists and find some solution that will allow both sides to save face.●

STEEL USERS SUPPORT VRA EXTENSION

● Mr. HEINZ. Mr. President, recently we have heard some criticism of voluntary restraint ageements from a few, rather vocal, steel-consuming companies. I would like to take a few moments to share with Senators, and with VRA critics, letters from some companies that are also steel users.

For example, the Calgon Carbon Corp. is representative of a vast number of steel-related businesses. It is a midsized company of 1,300 employees who produce steel fabricated carbon goods. These people and their families favor extension of VRA's so that the steel industry can continue to restore itself to international competitiveness, which has been so threatened by unfair trade practices.

In point of fact, companies of all sizes support VRA extension. From small ones such as Eagle Iron & Metals Inc., which employs 15 people to Crown Cork & Seal Co., composed of approximately 5,000 workers, support for VRA's runs deep. As one letter states, "the U.S. steel industry is just beginning its recovery, and continued support of the VRA's will ensure that its progress continues."

VRA's are an important step in the total recovery of the American steel industry. Their success or failure will have an impact far beyond the mills themselves. As these letters demonstrate, many companies have a vital stake in the health of the steel industry, including many who use steel products. I hope that as Senators consider this issue they will not be taken in by the arguments of a small group which account for only a small fraction of steel purchases. Steel users that support VRA extensions are far more numerous.

Mr. President, I ask that these letters be printed at this point in the RECORD.

The letters follow:

TUBE CITY IRON & METAL CO.,
Bala Cynwyd, PA, March 8, 1989.

Hon. JOHN H. HEINZ II,
Russell Office Building, Rm. 277, Washington, DC.

DEAR SENATOR HEINZ: Enclosed please find VRA Fact Sheet from the American Iron and Steel Institute. I am sure you probably have this in your possession—but just in case. It is important to me that VRA's continue in effect. It is critical to the recovery of the American steel industry. Just because there have been two decent years is not a reason to open the dam. One robin does not indeed make a Spring.

The United States steel industry has suffered for many years because of unfairly traded steel imports, mainly because of foreign country subsidy. We must learn from the past and understand that we almost lost our entire steel industry that took so many years to build and has served us so well. In preparation for national defense, I couldn't imagine what our country would do without a viable steel industry in time of global emergency. Even though our country has many friends who are major producers of steel today, in the past our philosophies have clashed and I would sincerely doubt whether they might be convinced to be our suppliers in a time of adversarial confrontation.

The VRA's have been very helpful in allowing the steel industry to virtually catch its breath. The industry has responded in kind. American steel companies have invested heavily in new plants and equipment and have shut down old, out-of-date facilities. Entrepreneurs have been availed of the opportunity to reclaim some facilities and make them profitable once again, and by doing this, have saved many jobs.

Let us not yield to academic pressure that fails to consider our realistic economic climate. Let's understand that these newly planted flowers need to grow strong, so let's not yank them up by the roots to see how they are doing. Let them grow and prosper so that what was once the admiration of all the world steps into the spotlight again.

Very truly yours,

I. MICHAEL COSLOV,
Chairman & CEO.

CARBON DIOXIDE CORP.,
Lyndhurst, NJ., March 16, 1989.

Senator JOHN HEINZ,
277 Russell Senate Office Building, Washington, DC.

DEAR SENATOR HEINZ: Implemented in 1984, the Voluntary Restraint Arrangements (VRA's) and Steel Import Stabilization Act were key factors in the recovery of the domestic steel industry during the financial crisis it suffered in the early 1980's. As you know, these programs will expire in September of this year unless extended. The extension of the VRA's and Steel Import Stabilization Act would ensure continued growth of the domestic steel industry toward full international competitiveness in every respect.

Liquid Carbonic is a user of the U.S. steel industry's products as well as a supplier to them. As such, we are requesting your support for the renewal of these programs.

Thank you.
Sincerely,

JOANNE RANSING,
Sales Representative.

UNITED ENGINEERS
& CONSTRUCTORS,
Philadelphia, PA., March 6, 1989.
Re voluntary restraint arrangement.
Hon. JOHN HEINZ,
U.S. Senate, Washington, DC.

DEAR SENATOR HEINZ: I am writing this letter in support of the extension of the Voluntary Restraint Arrangement program for the Iron and Steel Industry.

As long as other countries subsidize their steelmakers or own the steel mills, as long as imports to their countries are restricted, and as long as there is a surplus of steelmaking capacity in the world, there will be no "free trade" in the sense that we understand it.

Our country cannot take the chance that its steel industry will survive the onslaught of foreign government-subsidized steel which is certain to assault our shores if the subject program is allowed to expire.

Continuation of the Voluntary Restraint Arrangement will enable our steel industry to continue the modernization program on which it has embarked in 1983 and maintain its competitiveness, which is vital to its survival.

Because of the foregoing, I urge you to support the extension of the Voluntary Restraint Arrangement.

Respectfully yours,

I. ARDITI,
Vice President,
Industrial Division.

UNITED ENGINEERS
& CONSTRUCTORS,
Philadelphia, PA, March 28, 1989.
Re voluntary restraint arrangements.
Hon. JOHN HEINZ,
U.S. Senate, Washington, DC.

DEAR SENATOR HEINZ: I am writing this letter to enlist your support for the extension of the current Voluntary Restraint Arrangements (VRA's) for Iron and Steel Industry.

The present VRA's have a positive impact on domestic steel industry and had contributed to the modernization programs started by many steel producers. If the VRA's are allowed to expire the domestic market will be flooded by the foreign subsidized steel. This will seriously jeopardize the Steel Industry's sustained recovery. We should not allow this to happen but support the industry which is vitally important to our economy.

I urge you to support the extension of Voluntary Restraint Arrangements.

Respectfully yours,

M.A. MIRZA,
Project Engineering Manager.

ROYAL HYDRAULIC
SERVICE & MFG., INC.,
Cokeburg, February 21, 1989.
Senator JOHN HEINZ,
Russell Building, Room 277,
Washington, DC.

DEAR SENATOR HEINZ: Please support the VRA extension as you know how important the steel and mining industry is to this country and also to our business and others.

Thank you for your help.

Yours truly,

GEORGE MORRELL,
President.

EAGLE IRON & METALS INC.,
Pittsburgh, PA, March 29, 1989.
Hon. JOHN J. HEINZ,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR HEINZ: I write on behalf of my company and our 15 employees in support of extension of the steel Voluntary Restraint Arrangements (VRAs). We are a scrap metal dealer of ferrous and non-ferrous materials.

With VRAs due to expire in September of 1989, we strongly feel that prompt action to extend this program for a five-year period is critical for the domestic steel industry's further restructuring and modernization. We view VRA renewal as the key step by government to ensure that the domestic steel industry's progress in reinvestment, improved productivity and overall efficiency continues uninterrupted.

As you know, the condition of the domestic steel industry sharply deteriorated over many years as a result of growing foreign government intervention in steel industries abroad and resulting massive foreign unfair trade practices. Such practices were pervasive when the VRA program was instituted in 1984 and they continue today. Two clear examples are (1) the enormous foreign government subsidies that have perpetuated structural world excess capacity in steelmaking and (2) the widespread dumping of foreign steel in the U.S. market.

We strongly believe the VRA extension is critical to the long term sustained recovery of the American steel industry from one of the worst depressions in its history. Most importantly, the U.S. steel industry is just beginning its recovery, and continued support of the VRAs will ensure that its progress continues.

As a key investment in America's future, we respectfully urge your support for the extension of the steel VRA program. Thank you for your prompt consideration of this issue.

Sincerely,

R.A. SCHULTZ,
President.

CALGON CARBON CORP.,
Pittsburgh, PA, March 29, 1989.
Hon. JOHN HEINZ,
U.S. Senate, Washington, DC.

DEAR SENATOR HEINZ: I am writing to you on behalf of my company and our 1,300 employees, 700 of whom are in the United States, in support of extending the steel Voluntary Restraint Agreements (VRAs). Our firm produces and markets activated carbon and related equipment as well as providing contracted services for activated carbon users. The equipment we sell is fabricated mostly from steel. Our worldwide sales in 1988 were $226 million of which $148 million was in the United States or as exports from the U.S. Our U.S. plants are in Pittsburgh, Pennsylvania and Catlettsburg, Kentucky.

With VRAs due to expire in September 1989, we feel that prompt action to extend this program for a five-year period is critical for the U.S. steel industry's restructuring, modernization and long-term viability. We view VRA renewal as the key step government can take to ensure that the domestic steel industry's progress in reinvestment, improved productivity and increased efficiency continues.

As you know, the condition of the domestic steel industry sharply deteriorated over many years as a result of growing foreign government intervention in steel industries in their countries and led to massive foreign unfair trade practices. Such practices were pervasive when the VRA program was initiated in 1984 and they continue today. The two clearest examples are the enormous foreign government subsidies that have perpetuated excess capacity in steel making and the widespread dumping of foreign steel in the U.S. market.

As a firm that has itself faced stiff entry barriers in selling our products in several countries and has seen foreign competitors gaining easy access to U.S. markets aided by subsidies from their governments, we can understand what the American steel industry has faced. It is largely on that basis that I am writing to you.

The U.S. steel industry is just beginning its recovery and continued support of the VRA's will allow that progress to continue. We strongly believe that VRA extension is critical to the recovery and long-term health of the American steel industry. We respectfully urge your support for the extension of the steel VRA program.

Thank you for your consideration of this issue.

Sincerely,

T.A. MCCONOMY,
President.

CROWN CORK & SEAL CO., INC.,
Philadelphia, PA, March 22, 1989.
Hon. JOHN HEINZ III,
U.S. Senate,
Washington, DC.

DEAR SENATOR HEINZ: I write in behalf of my Company and our 5,000 employees in support of extension of the Steel Voluntary Restraint Arrangements (VRAs). Crown is a major manufacturer of containers for the Food, Beverage and Aerosol Industries. We operate 24 manufacturing plants in the United States.

With VRAs due to expire in September of 1989, we strongly feel that prompt action to extend this program for a five year period is critical for the domestic Steel Industry's further restructuring and modernization. We view VRA renewal as the key step by Government to ensure that the domestic Steel Industry's progress in reinvestment, improved productivity and overall efficiency continues uninterrupted.

As you know, the condition of the domestic steel industry sharply deteriorated over many years as a result of growing foreign government intervention in steel industries abroad and resulting massive foreign unfair trade practices. Such practices were pervasive when the VRA program was instituted in 1984 and they continue today. Two clear examples are (1) The enormous foreign government subsidies that have perpetuated structural world excess capacity in steelmaking and (2) The widespread dumping of foreign steel in the U.S. Market.

We strongly believe that VRA extension is critical to the long term sustained recovery of the American Steel Industry from one of the worst depressions in its history. Most importantly, the U.S. Steel Industry is just beginning its recovery, and continued support of the VRAs will ensure that its progress continues.

As a key investment in America's future, we respectfully urge your support for the extension of the Steel VRA Program. Thank you for your prompt consideration of this issue.

Sincerely,

RONALD R. THOMA,
Vice President, Procurement and Traffic.

HENRY MILLER SPRING & MANUFACTURING CO.,
Pittsburgh, PA, March 21, 1989.
Senator H. JOHN HEINZ III,
Senate Office Building,
Washington, DC.

MY DEAR SENATOR: This note is to indicate my support for V.R.A. agreement extension.

Although not the single cause for recovery of the steel industry, it apparently was certainly a strong contributor.

I would suggest the investment of a percentage of the profits into machinery and equipment for the basic industry.

Very truly yours,

DONALD F. MELAMPY,
President.

PITT-DES MOINES, INC.,
Pittsburgh, PA, April 11, 1989.
CAROLYN FRANK,
TPSC Secretary, Office of the U.S. Trade Representative, Washington, DC.

GENTLEMAN: In answer to your request for written comments on the President's Steel Program (VRA), we would like to offer the following.

Pitt-Des Moines, Inc. provides a wide-range of heavy custom engineered products, structures and facilities for commercial, industrial, municipal and governmental customers in addition to processing and distributing a general line of carbon steel products. We have 16 plants located in the United States, we have revenues of approximately $330 million and employ about 2,500 people. In 1988 we purchased well over 200,000 tons of steel products. Less than 20% came from foreign sources.

We heartily support the consideration of a three to five year extension to the current VRA Program.

The present VRA Program has contributed to the renaissance of the steel industry, giving the steel industry an opportunity to survive and rebuild. It has provided the opportunity for them to build new facilities that have developed and are serving our industry with a quality product, which was greatly needed for us to compete with foreign fabricators and with the certainty of receiving our shipments to meet the needs of our customers.

While steel products have increased in price and VRA has given the steel industry the opportunity to increase prices, the price of steel today is at a base where we think it should be. We have heard it stated and I believe it is a fact, that taking into consideration inflation, the average price of steel today is lower than it was in the early 1980's. Steel pricing today is still competitive with other construction products.

Without a VRA Program we'll go right back to the days when the steel industry was concerned with subsidized steel brought in by other countries and the dumping problems we are all too familiar with, with any action taken by Government agencies having little or no effect in solving the problem.

In our own company we feel the present VRA Program has contributed to increased employment and the initiation of a capital spending program all of which have not been available to us for several years.

The President's Steel Program is a defense and not a protection situation.

Yours very truly.

JOHN H. LONG,
Chairman of the Board.●

FEDERAL AND STATE INCOME TAX RETURNS FOR 1988

● Mr. CRANSTON. Mr. President, in keeping with my practice of making my tax returns public, I ask that my Federal and California income tax returns for 1988 be printed in the RECORD. As I announced to the press last year, I no longer accept honoraria.

The returns follow:

U.S. INDIVIDUAL INCOME TAX RETURN, 1988
1040, ALAN AND NORMA CRANSTON

Presidential Election Campaign

Do you want $1 to go to this fund? Yes.

If joint return, does your spouse want $1 to go to this fund? Yes.

Filing status

2. Married filing joint return (even if only one had income).

Exemptions

6a. Yourself.

b. Spouse.

e. Total number of exemptions claimed, 2.

Income

7. Wages, salaries, tips, etc. (*attach Form(s) W-2*), $89,500.

8a. Taxable interest income (*also attach Schedule B if over $400*), $29,984.

9. Dividend income (*also attach Schedule B if over $400*), $11,115.

10. Taxable refunds of state and local income taxes, if any, from worksheet on page 11 of instructions, $50.

12. Business income or (loss) (*attach Schedule C*), $21,900.

13. Capital gain or (loss) (*attach Schedule D*), $10,571.

16a. Total IRA distributions, $3,816.

17a. Total pensions and annuities, $63,743.

18. Rents, royalties, partnerships, estates, trusts, etc. (*attach Schedule E*), $115,074.

21a. Social security benefits (see page 13), $27,372.

b. Taxable amount, if any, from the worksheet on page 13, $13,686.

22. Other income (list type and amount) see page 13) Schedule attached, (39).

23. Add the amounts shown in the far right column for lines 7 through 22. This is your total income, $359,030.

Adjustments to income

24. Reimbursed employee business expenses from Form 2106, line 13, $3,233.

30. Add lines 24 through 29. These are your total adjustments, $3,233.

Adjusted gross income

31. Subtract line 30 from line 23. This is your adjusted gross income. *If this line is less than $18,576 and a child lived with you, see "Earned Income Credit" (line 56) on page 19 of the instructions. If you want IRS to figure your tax, see page 16 of the Instructions,* $355,797.

Tax computation

32. Amount from line 31 (adjusted gross income), $355,797.

33a. Check if: You were 65 or older, 1.

34. Enter the larger of: Your standard deduction (from page 17 of the Instructions), or Your itemized deductions (from Schedule A, line 26), $42,243.

35. Subtract line 34 from line 32. Enter the result here, $313,554.

36. Multiply $1,950 by the total number of exemptions claimed on line 6e, $3,900.

37. Taxable income. Subtract line 36 from line 35. Enter the result (if less than zero, enter zero), $309,654.

38. Enter tax. Check if from: Tax Rate Schedules, $87,795.

40. Add lines 38 and 39. Enter the total, $87,795.

Credits

47. Subtract line 46 from line 40. Enter the result (if less than zero, enter zero), $87,795.

Other taxes

53. Add lines 47 through 52. This is your total tax, $87,795.

Payments

54. Federal income tax withheld (if any is from Form(s) 1099, $19,135.

55. 1988 estimated tax payments and amount applied from 1987 return, $81,200.

61. Add lines 54 through 60. These are your total payments, $100,335.

Refund or amount you owe

62. If line 61 is larger than line 53, enter amount overpaid, $12,540.

64. Amount of line 62 to be applied to your 1989 estimated tax, $12,540.

SCHEDULE A—ITEMIZED DEDUCTIONS

Taxes you paid

5. State and local income taxes, $25,928.

6. Real estate taxes, $2,996.

8. Add the amounts on lines 5 through 7. Enter the total here. Total taxes, $28,924.

Interest you paid

9a. Deductible home mortgage interest you paid to financial institutions (report deductible points on line 10), $5,566.

11. Deductible investment interest (see page 24), $1,220.

12a. Personal interest you paid (see page 24), $1,782.

b. Multiply the amount on line 12a by 40% (.40). Enter the result, $713.

13. Add the amounts on lines 9a through 11, and 12b. Enter the total here. Total interest, $7,499.

Gifts to charity

14. Contributions by cash or check. (If you gave $3,000 or more to any one organization, show to whom you gave and how much you gave.) $5,820.

17. Add the amounts on lines 14 through 16. Enter the total here. Total contributions, $5,820.

Job expenses and most other miscellaneous deductions

20. Unreimbursed employee expenses—job travel, union dues, job education, etc. (You MUST attach Form 2106 in some cases. See Instructions.) $754.

21. Other expenses (investment, tax preparation, safe deposit box, etc.). List type and amount. Schedule attached, $2,759.

22. Add the amounts on lines 20 and 21. Enter the total, $3,513.

23. Multiply the amount on Form 1040, line 32, by 2% (.02). Enter the result here, $7,116.

Total itemized deductions

26. Add the amounts on line 4, 8, 13, 17, 18, 19, 24 and 25. Enter the total here. Then enter on Form 1040, line 34, the LARGER of this total or your standard deduction from page 17 of the Instructions, $42,243.

SCHEDULE B—INTEREST AND DIVIDEND INCOME

Part I—Interest income

2. Other interest income (list name of payer) Schedule attached, $29,984.

3. Add the amounts on lines 1 and 2. Enter the total here and on Form 1040, line 8a, $29,984.

Part II—Dividend income

4. Dividend income (list name of payer—include on this line capital gain distributions, nontaxable distributions, etc.). Schedule attached, $11,115.

5. Add the amounts on line 4. Enter the total here, $11,115.

9. Subtract line 8 from line 5. Enter the result here and on Form 1040, line 9, $11,115.

Part III—Foreign Accounts and Foreign Trusts

10. At any time during the tax year, did you have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)? (See page 27 of the Instructions for exceptions and filing requirements for Form TD F 90-22.1.) No.

11. Were you the grantor of, or transferor to, a foreign trust which existed during the current tax year, whether or not you have any beneficial interest in it? If "Yes," you may have to file Form 3520, 3520-A, or 926. No.

SCHEDULE C—PROFIT OR LOSS FROM BUSINESS

Name of proprietor: Alan Cranston.

A. Principal business or profession, including product or service (see Instructions): Honoraria for speeches and articles.

C. Business name and address: 112 Hart Senate Office Building, Washington, DC 20510.

F. Accounting method: Cash.

H. Are you deducting expenses for business use of your home? (If "Yes," see Instructions for limitations.) No.

I. Did you "materially participate" in the operation of this business during 1988? (If "No," see Instructions for limitations on losses.) Yes.

Part I—Income

1a. Gross receipts or sales, $23,421.

c. Subtract line 1b from line 1a. Enter the result here, $23,421.

3. Subtract line 2 from line 1c and enter the gross profit here, $23,421.

5. Add lines 3 and 4. This is the gross income, $23,421.

Part II—Deductions

10. Commissions, $200.

26. Travel, meals, and entertainment: a. Travel, $1,321.

30. Add amounts in columns for lines 6 through 29. These are the total deductions, $1,521.

31. Net profit or (loss). Subtract line 30 from line 5. If a profit, enter here and on Form 1040, line 12, and on Schedule SE, line 2. If a loss, you MUST go on to line 32. (Fiduciaries, see instructions.) $21,900.

SCHEDULE D—CAPITAL GAINS AND LOSSES

Part II—Long-Term Capital Gains and Losses—Assets Held More Than One Year (more than 6 months if acquired before 1/1/88)

12. Net long-term gain or (loss) from partnerships, S corporations, and fiduciaries, $10,571.

16. Add all of the transactions on lines 9a and 9c and lines 10 through 15 in columns (f) and (g), $10,571.

17. Net long-term gain or (loss), combine columns (f) and (g) of line 16, $10,571.

Part III—Summary of Parts I and II

18. Combine lines 8 and 17, and enter the net gain or (loss) here. If result is a gain, also enter the gain on Form 1040, line 13, $10,571.

SUPPLEMENTAL INCOME SCHEDULE

Part I—Rental and royalty income or loss

4. Rents received, $150,434.

20. Total expenses other than depreciation and depletion. Add lines 6 through 19, $27,528.

21. Depreciation expense (see Instructions), or depletion (see Pub. 535), $6,212.

25. Profits. Add rental and royalty profits from line 23. Enter the total profits here, $116,694.

27. Combine amounts on lines 25 and 26. Enter the net profit or (loss) here, $116,694.

29. Total rental or royalty income or (loss). Combine amounts on lines 27 and 28. Enter the total here. If Parts II, III, IV, and V on page 2 do not apply to you, enter the amount from line 29 on Form 1040, line 18. Otherwise, include the amount from line 29 in line 42 on page 2 of Schedule E, $116,694.

Part III—Income or loss from estates and trusts

Passive Income and Loss, ($1,620).

Part VI—Summary

42. Total income or (loss). Combine amounts on lines 29, 33, 37, 38, and 41. Enter the total here and on Form 1040, line 18, $115,074.

SOCIAL SECURITY SELF-EMPLOYMENT TAX

2. Net profit or (loss) from Schedule C (Form 1040), line 31, and Schedule K-1 (Form 1065), line 14a (other than farming). See the Instructions for other income to report, $21,900.00.

3. Add lines 1 and 2. Enter the total. If the total is less than $400, do not file this schedule, $21,900.00.

4. The largest amount of combined wages and self-employment earnings subject to social security or railroad retirement tax (tier 1) for 1988 is, $45,000.00.

5. Total social security wages and tips from Forms W-2 and railroad retirement compensation (tier 1), $89,500.00.

6. Subtract line 5 from line 4. Enter the result. (If the result is zero or less, do not file this schedule.), 0.

EMPLOYEE BUSINESS EXPENSES

Part I—Employee business expenses

1. Vehicle expense from Part II, line 15 or line 22 (other than meals and entertainment), $42.48.

3. Travel expense while away from home, including lodging, airplane, car rental, etc. Do not include meals and entertainment (other than meals and entertainment), $8,441.19.

4. Business expenses not included in lines 1 through 3. Do not include meals and entertainment (other than meals and entertainment), $45,833.17.

5. Meals and entertainment expenses. (See Instructions,) (meals and entertainment), $54.19.

6. Add lines 1 through 5 and enter the total expenses here (other than meals and entertainment), $54,316.84; (meals and entertainment), $54.19.

7. Reimbursements for the expenses listed in Step 1 that your employer did not report to you on Form W-2 or Form 1099 (other than meals and entertainment), $51,083.41; (meals and entertainment), $54.19.

10. Subtract line 7 from line 6. If zero or less, enter zero (other than meals and entertainment), $3,233.43.

13. Add the amounts on line 12 of both columns and enter the total here. This is your fully deductible reimbursed expenses. Also enter the total on Form 1040, line 24 (meals and entertainment), $3,233.43.

Part II—Vehicle expenses—Section B.—Standard Mileage Rate (Do not use this section unless you own the vehicle.)

11. Enter the smaller of Part II, line 3, or 15,000 miles, 177 miles.

13. Multiply line 11 by 24¢ (.24) (see Instructions if vehicle is fully depreciated), $42.

15. Add lines 13 and 14. Enter total here and on Part I, line 1, $42.

Name: Alan Cranston. [redacted].
Address: 112 Hart Senate Office Building.
City, State, Zip: Washington, DC. 20510.

I hereby certify that I was in travel status in the Washington, DC., area, away from my home in my home state of California, in the performance of my official duties as a Member of Congress for 178 days during the year 1988 and that my deductible living expenses while in such travel status amounted to $3000.

ALAN CRANSTON
March 14, 1989.

(NOTE: If such living expenses exceeded $3,000, the deduction is limited under section 162(2) in the Internal Revenue Code of 1954 to $3,000.)

Part I—Depreciation

9. MACRS deduction for assets placed in service prior to 1988 (see instructions), $54.

11. ACRS and/or other depreciation (see instructions), $6,158.

12. Total (add deductions on lines 5 through 11). Enter here and on the Depreciation line of your return (Partnerships and S corporations—Do NOT include any amounts entered on line 5.), $6,212.

ALTERNATIVE MINIMUM TAX—INDIVIDUALS

1. Taxable income from Form 1040, line 37 (can be less than zero), $309,654.

3. Add lines 1 and 2, $309,654

4. Adjustments: b. Personal exemption amount from Form 1040, line 36, $3,900.

e. Taxes from Schedule A, line 8, $28,924.

g. Interest from Schedule A, line 12b, $713.

i. Combine lines 4a through 4h, $33,537.

5. Tax preference items: e. Accelerated depreciation of real property placed in service before 1987, $479.

k. Add lines 5e through 5j, $479.

6. Combine lines 3, 4i, 4u, 5d, and 5k, $343,670.

8. Alternative minimum taxable income (subtract line 7 from line 6). If married filing separate returns, see instructions, $343,670.

9. Enter: $40,000 ($20,000 if married filing separately; $30,000 if single or head of household), $40,000.

10. Enter: $150,000 ($75,000 if married filing separately; $112,500 if single or head of household), $150,000.

11. Subtract line 10 from line 8. If -0- or less, enter -0- here and on line 12 and go to line 13. If this line is more than -0-, go to line 12, $193,670

12. Multiply line 11 by 25% (.25), $48,418.

14. Subtract line 13 from line 8. If -0- or less, enter -0- here and on line 19. If this line is more than -0-, go to line 15, $343,670.

15. Multiply line 14 by 21% (.21), $72,171.

17. Tentative minimum tax (subtract line 16 from line 15), $72,171.

18. Regular tax before credits (Form 1040, line 38) minus foreign tax credit (Form 1040, line 43). See instructions, $87,795.

PASSIVE ACTIVITY LOSS LIMITATIONS

Part I—Computation of 1988 passive activity loss

1a. Activities with net income, Worksheet 1, Part 1, column (a), $116,694.

1c. Combine lines 1a and 1b, $116,694.

1g. Net income or (loss). Combine lines 1c and 1f, $116,694.

1i. Combine lines 1g and 1h, $116,694.

2e. Activities with net loss, Worksheet, Part 2, column (b), $1,620.

2f. Combine lines 2d and 2e, $1,620.

2g. Net income or (loss). Combine lines 2c and 2f, $($1,620).

2i. Combine lines 2g and 2h, $($1,620).

3. Combine lines 1i and 2i. If the result is net income or -0-, see instructions for line 3. If this line and line 1c or line 1i are losses, go to line 4. Otherwise, enter -0- on lines 8 and 9 and go to line 10, $115,074.

ALAN AND NORMA CRANSTON, 1988 INDIVIDUAL INCOME TAX RETURN

		Federal	California
Taxes:			
Real estate—402 Constitution Avenue, Washington, D.C.		$1,328	
Real estate—2024 Camden Avenue, Los Angeles, CA		1,045	
KRAG Ranch (5 percent interest)		623	
Subtotal		2,996	$2,996
California income		25,928	
Total		28,924	2,996
Interest expense:			
Home mortgage—2024 Camden Avenue, Los Angeles		5,566	
Kim Cranston	$1,732		
Franchise Tax Board	50		
Total	1,782		
	×.40	713	
Investment interest—partnerships		1,220	
Total		7,499	7,499
Contributions:			
Various Cash contributions		5,325	
From trusts as partnership passthru		495	
Total		5,820	5,820
Miscellaneous deductions:			
Employee business expenses:			
Congressional expenses—office and miscellaneous		754	754
Safe deposit box		40	40
Income tax preparation		2,150	2,150
Partnership portfolio deductions—schedule attached		269	270

ALAN AND NORMA CRANSTON, 1988 INDIVIDUAL INCOME TAX RETURN—Continued

		Federal	California
Alan Cranston Qualified Blind Trust—tax preparation fees		300	300
Total		3,513	3,514
Form 2106—Line 6, Part I:			
Employee business expenses:			
Living expenses—Washington D.C.		3,000	
Travel		5,441	
Meals and entertainment		54	
Expenses in maintaining office in home state		45,833	
Automobile expenses—177 miles × 24¢		42	
Total		54,370	
Less reimbursements		51,137	
Total		3,233	
Dividend income:			
Dreyfuss Liquid Assets, Inc		6,642	
Fidelity Investments		1,646	
Cranston Community Qualified Blind Trust:			
Alan Cranston	1,383		
Norma Cranston	1,382	2,765	
Partnerships—Schedule attached		62	
Total		11,115	11,115
Interest income:			
Wells Fargo NOW account		437	
American Security Bank:			
NOW Account		941	
Savings		6,595	
Alan Cranston qualified blind trust		21,893	
Total		29,866	29,866
Partnerships		118	117
Total		29,984	29,983
Other income:			
Portfolio income—partnerships—Schedule attached		11	11
State income tax adjustment		(50)	
Total		(39)	11
IRA distribution:			
Total distribution from Merrill Lynch		3,816	3,816
Basis recovery—California:			
Basis	4,000		
Recoveries:			
1984	170		
1985	329		
1986	450		
1987			
Total	949		
Available basis			3,051
Total		3,816	765

ALAN AND NORMA CRANSTON, 1988 INDIVIDUAL INCOME TAX RETURN

	FICA	W/H	Federal	California
Salary:				
U.S. Senate, Washington, DC	$3,380	$19,135	$89,500	$89,500
California W/H	5,472			
Retirement Pay: State of California Legislators' Retirement System			62,907	62,907

Annuity income:

Company	Travelers
Contract	02421955
Starting date	12/19/79
First payment date	12/19/79
Monthly installment	$69.70
Annual amount	$836.40
Investment in contract	$6,390.40
Expected return	$14,425.28
Exclusion ratio	.4430
Received in 1988	836.40
Excludable at 44.3 percent	370.53
Taxable	465.87

ALAN AND NORMA CRANSTON, 1988 INDIVIDUAL INCOME TAX RETURN

	Partnership [1]	Portfolio income: Dividends	Portfolio income: Interest	Charitable deduction	Other deductions
TRUST INCOME (LOSSES)					
(A) Alan Cranston Community Qualified Blind Trust Fed. ID #95–6817334	$1,383				
(B) Norma Cranston Community Qualified blind Trust Fed. ID #95–6817334	1,382				
(C) Alan Cranston qualified blind trust Fed. ID #95–6386948			$21,893	$495	$300
Lakewood & Gardendale Ltd	($201)				
Venice and Canfield Ltd	(1,419)				
Total	(1,620)	2,765	21,893	495	300

[1] Activity required after Oct. 22, 1986.

ALAN AND NORMA CRANSTON, 1988 INDIVIDUAL INCOME TAX RETURN

	Portfolio income: Interest	Portfolio income: Dividends	Portfolio income: Other	Deductions Re: Portfolio income	LT capital gain	Investment income	Investment interest expense	Investment expenses
Partnership income (losses)—Federal:								
Five Area Properties, Ltd., Fed. I.D. #95–6323158	$92			$95	$10,108	$10,200	$1,220	$95
Four Area Properties, Fed. I.D. #95–6319195	26			11	463	489		11
Simi-Moorpark Freeway Properties, Fed. I.D. #95–6230970		$62	$11	163		73		163
Total	118	62	11	269	10,571	10,762	1,220	269
California—Schedule attached	117	62	11	270	10,571	10,762	1,220	270
California adjustments	(1)			1				1
Partnership income (losses)—California:								
Five Area Properties, Ltd., Fed. I.D. #95–6323158	92			95	10,108	10,200	1,220	95
Four Area Properties, Fed. I.D. #95–6319195	25			12	463	489		12
Simi-Moorpark Freeway Properties, Fed. I.D. #95–6230970		62	11	163		73		163
Total	117	62	11	270	10,571	10,762	1,220	270

ALAN AND NORMA CRANSTON, 1988 INDIVIDUAL INCOME TAX RETURN

[Depreciation—Rental Properties]

	Date Acqd.	Basis	Prior Depn.	Method	Life or ACRS percent	1988 Depn.	California		
							Prior Depn.	Method Rate	1988 Expense
215–225 Main Street, Los Altos:									
Building	Var	$12,846.00	$12,846.00	SL	30 years				
Improvements	Var	4,533.00	4,533.00						
Improvements	1970	2,506.00	2,506.00						
New roof	Oct. 1981	7,024.75	4,390.50	SL	10 years	$702.48			
Total		26,909.75	24,275.50			702.48	$24.275.50		$702.48
501–517 San Mateo Avenue, San Bruno:									
Building	March 1969	6,075.00	3,978.13	SL	28 years	216.96	3,978.13	SL 2.5	216.96
New toilet, sink and pipes	Dec. 1981	1,300.00	790.84	SL	10 years	130.00	790.84	SL 10	130.00
Roof	Sept. 1986	5,895.00	689.72	ACRS	8.1 percent	477.50	655.00	SL 8⅓	491.25
Total		13,270.00	5,458.69			824.46	5,423.97		838.21
483–490 San Mateo Avenue, San Bruno:									
Building	Var	31,500.00	31,500.00	SL	25 years		31,500.00	SL	
Improvements	Var	13,290.00	13,290.00	SL	15 years		13,290.00	SL	
Improvements	Var	3,000.00	3,000.00	SL	15 years	3,000.00	SL		
Heater	July 1977	500.00	500.00	SL	10 years		500.00	SL 10	
Carpeting	June 1978	1,026.00	1,026.00	SL	5 years		1,026.00	SL	
Heater	Sept. 1978	62.50	62.50	SL			62.50	SL	
Roof	April 1980	4,029.75	3,089.51	SL	10 years	402.98	3,089.51	SL 10	402.98
Back door	Dec. 1981	1,232.00	749.47	SL	10 years	123.20	749.47	SL 10	123.20
Roof	Nov. 1986	5,793.07	590.89	AGRS	8.3 percent	480.82	563.22	SL 8⅓	482.76
Total		60,433.32	53,808.37			1,007.00	53,780.00		1,008.94
318–324 University Avenue, Palo Alto:									
Building	Oct. 1957	23,205.50	18,886.52	SL	28 years	828.77	18,886.52	SL	828.77
Improvements	1960	333.25	333.25				333.25		
Improvements	1965	162.00	162.00				162.00		
Improvements	1966	187.50	187.50				187.50		
Improvements	April 1977	6,350.54	3,413.45	SL	20 years	317.53	3,413.45	SL 5	317.53
Improvements	April 1977	1,835.70	1,835.70	SL	10 years		1,835.70		
Air conditioning	Dec. 1981	2,880.00	1,944.00	SL	10 years	288.00	1,944.00	SL 10	288.00
Steel door	Feb. 1984	720.00	295.20	ACRS	10 percent	72.00	197.28	SL 7	50.40
Improvements—Gaskills	Nov. 1985	6,976.19	1,290.59	ACRS	7.5 percent	523.21	1,007.67	SL 6⅔	465.08
Underground electrical lines	June 1987	1,700.00	29.24	MACRS	3.175 percent	53.98	29.24	SL 3.175	53.98
Total		44,350.68	28,377.45			2,083.49	27,996.61		2,003.76
161–165 Main Street, Los Altos:									
Building	Oct. 1957	20,113.25	14,619.70	SL	28 years	718.33			
Improvements	1967	250.00	250.00						
Improvements	Feb. 1968	125.00	125.00						
Air conditioner	Oct. 1968	205.00	205.00						
Air conditioner	July 1970	375.00	375.00						
Total		21,068.25	15,574.70			718.33	15,574.70		718.33
402 Constitution, Washington, D.C.:									
Building	Feb. 1977	26,280.00	9,563.00	SL	30 years	876.00	9,563.00	SL 3⅓	876.00
Total		192,312.00	137,057.71			6,211.76	136.614.48		6,147.72

ALAN AND NORMA CRANSTON, 1988 INDIVIDUAL INCOME TAX RETURN

[Income from rents]

	Total	215–225 Main, Los Altos	501–517 San Mateo, San Bruno	San Mateo, San Bruno (½ interest)	University, Palo Alto (½ interest)	Main, Los Altos (¼ interest)	402 Constitution, Washington, D.C.
Rents collected	$150,434	$50,335	$16,795	$20,574	$44,019	$13,911	$4,800
Expenses:							
Real estate taxes	4,693	953	362	333	2,088	293	664
Insurance	8,112	2,469	1,356	1,825	1,590	592	280
Management fee	7,303	2,554	833	1,032	2,188	696	
Repairs and maintenance	1,807	122	105	275	480	335	490
Lease commission amortization	3,095	1,119	394	668	762	152	
Utilities	992				27		965
Dues	47	47					
Office rent	300				300		
Pest control	70						70
Miscellaneous	309				309		
Total	26,728	7,264	3,050	4,133	7,744	2,068	2,469
Income before depreciation	123,706	43,071	13,745	16,441	36,275	11,843	2,331
Depreciation	6,212	702	825	1,007	2,084	718	876
Total	117,494	42,369	12,920	15,434	34,191	11,125	1,455
(Less)—Accounting	(800)						
Net rental income	116,694						
Depreciation adjustment—California	64						
Net rental income	116,758						

ALAN AND NORMA CRANSTON, 1988 INDIVIDUAL INCOME TAX RETURN

[Amortization of lease commissions]

	Date acquired	Cost	Prior amortization	Life in months	1988 amortization
215–225 Main, Los Altos:					
Loom	Apr. 1, 1982	$2,304.60	$2,304.60	60	
Women's World	June 1, 1984	1,542.00	1,105.10	60	$308.40
Quilt Bee	Apr. 1, 1987	4,052.00	607.80	60	810.40
Total		7,898.60	4,017.50		1,118.80
Remove fully amortized items		(2,304.60)	(2,304.60)		
Total		5,594.00	1,712.90		
501–517 San Mateo Avenue, San Bruno—Town Cobbler	Apr. 1, 1986	1,973.00	690.48	60	394.60
482–490 San Mateo Avenue, San Bruno	1984	924.00	677.60	60	184.80
Bike Route	1986	1,242.00	248.40	60	248.40
Bike Route	1987	1,173.00	234.60	60	234.60
Total	3,339.00	1,160.60	667.80		
318–324 University Avenue, Palo Alto:					
	1979	1,824.00	1,489.74	120	182.40
	1982	517.50	517.50	60	
	Oct. 1985	2,898.00	1,304.10	60	579.69
Total		5,239.50	3,311.34		762.00
Remove fully amortized items		(517.50)	(517.50)		
Total		4,722.00	2,793.84		
161, 163, 165 Main Street, Los Altos	1982	652.80	652.80	60	
Uptown Cafe	Nov. 1985	759.00	328.90	60	151.80
Total		1,411.80	981.70		151.80
Remove fully amortized items		(652.80)	(652.80)		
Total		759.00	328.90		
Total		16,387.00	6,686.72		3,095.00

CALIFORNIA LONG TAX FORM 1988

Name and address

Alan and Norma Granston.

Filing status

2. Married filing joint return (even if only one had income).

Exemptions

7. Personal: If you checked box 1 or 3 above, enter $52. If you checked box 2, 4 or 5, enter $104, $104.

9. Elderly: If you or your spouse is 65 or older, enter $52. If both are 65 older, enter $104, $104.

11. Total exemption credits. Add lines 7 through 10. Enter here and on line 20 below, $208.

Taxable income

12a. Wages (included in your federal adjusted gross income) from line 7 of your Form 1040, line 7 of your Form 1040A, or line 1 of your Form 1040EZ, $89,500.

12b. Federal adjusted gross income from line 31 of your Form 1040, line 13 of your Form 1040A, or line 3 of your Form 1040EZ, $355,797.

13. California adjustments—subtractions. Enter amount from Schedule CA, line 14, $16,788.

14. Subtract line 13 from line 12b. If less than zero, enter the result in brackets. See instructions, $339,009.

15. California adjustments—additions. Enter amount from Schedule CA, line 21, $114.

16. California adjusted gross income. Combine line 14 and line 15. If $19,850 or less, see instructions, $339,123.

17. Enter the larger of: Your itemized deductions (from Schedule CA, line 26), $16,316.

18. Taxable income. Subtract line 17 from line 16. If less than zero, enter zero, $322,807.

Figure your tax and credits

19. Enter tax. Check if from Tax Table, $27,568.

20. Exemption credits. Enter amount from line 11 above, $208.

23. Total credits. Add lines 20 through 22, $208.

24a. Subtract line 23 from line 19. If less than zero, enter zero. $27,360.

Special credits

24b. Amount from line 24a on front side, $27,360.

30. Subtract line 29 from line 24b. If less than zero, enter zero, $27,360

Other taxes

33. Total tax. Add lines 30 through 32, $27,360

Payments

34. California income tax withheld. Enter total from your 1988 W–2 forms, $5,472.

35. 1988 California estimated tax and amount applied from 1987 return. Include amount paid with any extension request (form FTB 3502), $20,400.

38. Total payments. Add lines 34 through 37, $25,872.

Overpaid tax or tax due

42. Tax due. If line 33 is larger than line 38, subtract line 38 from line 33, $1,488.

Voluntary contributions

49. California Election Campaign Fund

49. Your Political Party Democratic Amount (25 max), $25.

50. Spouse's Political Party Democratic Amount ($25 max), $25.

51. Total Contributions. Add lines 43 through 50, $50.

Refund or amount you owe

53. AMOUNT YOU OWE. Add line 42 and line 51. Attach check or money order for full amount payable to "Franchise Tax Board." Write your social security number and "1988 Form 540" on it. Mail it with your return to Franchise Tax Board, P.O. Box 942867, Sacramento, CA 94267–0001, $1,538.

SCHEDULE CA—CALIFORNIA ADJUSTMENTS 1988

Part I—Adjustments to Federal adjusted gross income

1. State income tax refund from federal Form 1040, line 10, $50.

3. Social security benefits from federal Form 1040, line 21b, $13,686.

7. IRA distributions. See instructions, $3,051.

13. Other subtractions:

b. Other. See instructions. Specify Partnership—Portfolio income, $1.

14. Total subtractions. Add lines 1 through 13b. Enter here and on Form 540, line 13, $16,788.

17. Depreciation and amortization from Form FTB 3885A, line 6b and line 9b, $64.

20. Other additions.

b. Other. See instructions. Specify State income tax adjust, $50.

21. Total additions. Add lines 15 through 20b. Enter here and on Form 540, line 15, $114.

Part II—Adjustments to Federal itemized deductions

22. Federal itemized deductions from federal Schedule A, line 26, $42,243.

23. State and local income taxes from federal Schedule A, line 5 and foreign income taxes. See instructions, $25,928.

24. Subtract line 23 from line 22, $16,315.

25. Other adjustments. See instructions. Specify Miscell. deductions—Schedule attached, $1.

26. California itemized deductions. Combine line 24 and line 25, $16,316.

SCHEDULE P (540)—ALTERNATIVE MINIMUM TAX—INDIVIDUALS 1988

Part I

1. Taxable income from Form 540, line 18 (may be less than zero), $322,807.

3. Add line 1 and line 2, $322,807.

4. Adjustments:
d. Taxes, $2,996.
e. Interest from federal Schedule A (Form 1040) (computed for California purposes), line 12b, $713.
r. Total adjustments. Combine lines 4(a) through 4(q), $3,709.
6. Combine lines 3, 4r and 5h, $326,516.
8. Alternative minimum taxable income. Subtract line 7 from line 6, $326,516.
9. Enter: $40,000 ($20,000 if married filing separately; $30,000 if single or head of household), $40,000.
10. Enter: $150,000 ($75,000 if married filing separately; $112,500 if single or head of household), $150,000.
11. Subtract line 10 from line 8. If zero or less, enter zero, $176,516.
12. Multiply line 11 by 25% (.25), $44,129.
14. Subtract line 13 from line 8. If zero or less, enter zero, $326,516.
15. Multiply line 14 by 7% (.07), $22,856.
17. Tentative minimum tax. Subtract line 16 from line 15, $22,856.
18. Regular tax before credits (Form 540, line 19) (excluding tax on lump-sum distributions) minus credit for taxes paid to another state, $27,568.

CALIFORNIA FORM 3885A—DEPRECIATION AND AMORTIZATION ADJUSTMENTS 1988

1. Passive Activities (see Instruction C): Real estate—Schedule attached.
(g) Depreciation for this year—$6,148.
Total Passive. Add column (g) and column (j) amounts of line 1: $6,148.●

LINE-ITEM VETO AND ENHANCED RESCISSION

● Mr. McCONNELL. Mr. President, for those of us who have been ever supportive of constitutional line-item veto authority for the President, it has been a frustrating exercise. Today, I ask my colleagues to consider the merit of a different approach to this problem. Senator DOLE and Senator MCCAIN have introduced S. 6, the Spending Control Enhancement Act of 1989.

This is a statutory line item veto or enhanced rescission bill. It is simple, straightforward, and designed to minimize political maneuvering and uncertainty. It will allow the President, within 10 days after signing an appropriations bill, to inform the Congress that he would like to rescind, in part or in full, budget authority provided in that bill for items he opposes. The Congress then may overturn the rescission by joint resolution passed within 10 days.

This is not a new approach to line item veto power. It has its history in the debate of the 1974 Budget Act. The resulting rescission procedure has proved ineffective. There were no rescissions requested in 1988 and only 1 percent in 1986 and 1987 were approved. The wagon is broke.

As a cosponsor, I encourage my colleagues to consider this budget reform proposal. I hope we have the opportunity to vote on this proposal in the full Senate this year—we certainly owe it to the taxpayers.●

UNITED WAY VOLUNTEERS OF POLK COUNTY, IA

● Mr. HARKIN. Mr. President, with National Volunteer Week recently behind us, I rise today to commend the individuals who give freely of their own time and energy to help others. Today I want to especially thank the 1,000 United Way volunteers of Polk County, IA, for their contributions to that community.

These older adults have provided direct, as well as administrative, service to over 200 nonprofit agencies and have contributed over 162,000 hours in their last program year.

The volunteers give more than just their time. Equipped with knowledge and experience accumulated over a lifetime, they come to the assistance of others, and offer a vital link with our cultural heritage.

Nora Crumb of Des Moines is a fine example of someone selflessly giving her time to others. Recently, Nora helped guide the students at Woodside Middle School Students in making a quilt of Iowa, designing a block for each of the 99 counties. Not only did the students learn the dying art of quilting, but they also learned more about the history of their home State. Through her effort, Nora shared a part of her life with the students as well as demonstrating to them the act of giving. The finished quilt will be displayed at the Iowa State Fair this summer.

The actions of the Polk County volunteers are in the finest tradition of the American character—people helping people. In a time when we hear so much about what is wrong with our country, I think it is very worthwhile to pay tribute to a group of people who give so much to their community.●

HON. FORREST "FROSTY" SCHWENGELS

● Mr. GRASSLEY. Mr. President, I rise to pay tribute to a friend and a statesman: Hon. Forrest "Frosty" Schwengels, who passed away on Monday, April 10, at the age of 73.

Frosty Schwengels—among the many accomplishments of his lifetime—served as an Iowa State Senator for 16 years, from 1972 until 1988.

Born on August 27, 1915, in Sheffield, IA, Frosty attended schools in Sheffield; Chicago, IL; and Kirksville, MO.

He attended Northeast Missouri State Teachers College in Kirksville and eventually received a bachelor's degree in 1940 from Parsons College in Fairfield, IA, where he played football and track. He received a master's degree from Georgetown University and also completed work toward a doctoral degree at Indiana University.

In 1943, Frosty and Betty Pickett married. They have two sons, one daughter, and six grandchildren.

Among his three siblings, Frosty counts a former colleague of ours; Hon. Fred Schwengel, who served Iowa in the House of Representatives and who is now the president of the U.S. Capitol Historical Society.

Frosty served in the U.S. Air Force for 23 years, attaining the rank of lieutenant colonel.

Upon his retirement from the Air Force in 1963, Frosty returned to Fairfield and began a second career as a professor of American government, international relations, and Western civilization at his alma mater, Parsons College.

In the tradition of another champion of the environment, Theodore Roosevelt, Frosty is known for his staunch defense of our natural resources, especially the preservation of our soil and water.

During his service in the Iowa State Senate, Frosty led the effort and authored the legislation that pioneered soil erosion control and soil-conservation cost-sharing policies with Iowa farmers. These have become model environmental statutes for the Nation.

Despite his somewhat crusty demeanor, there was an impish grin that was never too far from the surface. He was a determined fighter for what he believed was the right thing to do, and this belief was based on his fierce drive to work hard for the good of all Iowans, no matter what their philosophy.

Iowa has lost a great advocate and a loyal son, and we have lost a friend. I know that we all extend our deepest sympathies to Betty and the rest of Frosty's family.

There was only one Frosty Schwengels, and he will be missed.●

WIRETAPPING

● Mr. SIMON. Mr. President, recently the Chicago Tribune had a story by Tom Hundley from Cincinnati that is a disquieting story, indeed.

It is a story of wiretapping gone far beyond anything anyone at all concerned with civil liberties could imagine happening in the United States.

I will ask that the Hundley article be inserted in the RECORD.

The Constitution prohibits unreasonable searches and seizures, and it certainly is going far beyond anything those who wrote our Constitution envisioned for people to be listening to conversations.

Even legal wiretapping should be very restrained. We have far too much that is legal. Those who are involved in legal wiretapping, when they retire, too often move on to make a living in illegal wiretapping.

At least, that is the impression that I have from my conversations with a few people.

Is what is described in the article only taking place in Cincinnati?

I hope so, but I doubt it.

The unusual situation of 2 people admitting to setting more than 1,200 illegal wiretaps, including one in the room where former President Gerald Ford visited.

When I was in the State legislature, I was pleased to sponsor a bill that would dramatically curb wiretapping in Illinois. I'm pleased to say that the chief sponsor of that legislation was Representative Jeanne Hurley, who has been my wife now for almost 29 years. That law is still largely intact in Illinois.

I am writing to the Government Accounting Office [GAO] requesting any information they may have as to how common what has apparently taken place in Cincinnati is. I'm also writing to Attorney General Richard Thornburgh requesting the same information.

I am sending a copy of this article to the chairman of the Senate Judiciary Committee, asking him to join me in requesting the GAO study on this and to look into the possibility of hearings on this subject after we hear from the GAO.

I ask that the article be printed in the RECORD.

The article follows:

TAPPING INTO A SCANDAL—FIRED WORKERS SAY CINCINNATI BELL, POLICE BUGGED LINES

(By Tom Hundley)

CINCINNATI.—The Pete Rose gambling affair isn't the only story that has Cincinnatians scratching their heads these days.

In what some have dubbed the "reach out and tap someone" scandal, two former telephone installers for Cincinnati Bell claim they set more than 1,200 illegal wiretaps from 1972 to 1984 on orders from city police and phone company supervisors.

Among the alleged targets of the snooping: past and present members of Congress, federal judges, scores of the city's most prominent politicians, business executives, lawyers and media personalities.

Leonard Gates and Robert Draise say they even tapped the hotel room where then-President Gerald Ford stayed during two visits to Cincinnati, a tale substantially corroborated by the hotel's retired security chief.

Newspaper accounts have given Cincinnatians a disquieting inside look at a Police Department that apparently spied on itself, and at a grand jury probe that has prompted one former FBI official to suggest that the Justice Department seems more interested in discrediting the accusers than in seeking the truth.

The phone company says Gates and Draise are just trying to get even with the company for firing them. But disclosures thus far suggest there is at least some truth in what the two are saying.

The men portray themselves as mere foot soldiers in the alleged conspiracy who never paused to question the motives behind the wholesale wiretapping.

But their allegations have raised concerns about possible stock manipulations, industrial espionage and political blackmail. Gates and Draise say they tapped phone lines at the Cincinnati Stock Exchange and at General Electric's aircraft engine plant in suburban Evendale.

A federal grand jury began looking into the case last September, but so far no indictments have been returned. The city has hired a private detective to conduct its own investigation. And four alleged targets of the wiretapping have brought a class-action suit against the city and the phone company.

The phone company is fighting back with a libel suit against Gates and Draise, who, in turn, have countersued Cincinnati Bell. The company also has gone public with the unseemly details of an extramarital affair by Gates.

The conspiracy began in 1972, according to Draise, when he was approached by a Cincinnati police sergeant who said he was from the department's clandestine intelligence unit. The sergeant wanted him to tap the lines of black militants and suspected drug dealers, Draise said.

The officer assured him that the wiretapping would be legal, and that top phone company officials had approved, Draise said. He agreed and suggested the recruitment of Gates, a co-worker. Soon the two were setting several wiretaps a week at the request of their police handlers, he said.

But in the mid-'70s, the direction and scope of the operation changed, according to Draise and Gates. The wiretap requests no longer came from the police; instead, they came directly from James West and Peter Gabor, supervisors in Cincinnati Bell's security department, Draise and Gates say.

And the targets no longer were criminal elements; instead, Draise and Gates say they were asked to tap the lines of politicians, business executives and police officers.

Draise said he "began to have doubts about the whole thing in 1979" when he was asked to tap the phone of a newspaper columnist. "I told them I'm not gonna do this anymore," he said last week.

Gates said he got cold feet in 1984 when West asked him to tap the phone lines connected to GE's computers at the Evendale plant.

"This is a fantasy of two renegades, both of whom we fired for good cause and who seek retribution," said Dwight Hibbard, Cincinnati Bell's chairman.

Indeed, Draise was fired in 1979, after he pleaded guilty to a misdemeanor in connection with an unauthorized wiretap—which Draise says he set for a friend who wanted to listen in on his girlfriend's conversations.

Gates was fired in 1986 for insubordination. He claims the company was retaliating against him for taking the side of two employees who sued the company for sexual harassment, but his firing was upheld in court.

The scandal began to unfold last August when Gates and Draise took their story to the Mt. Washington Press, a fiesty suburban weekly.

At first, police denied the existence of the intelligence unit. Later, when called before the grand jury, five retired officers, including the former chief, took the 5th Amendment. But last month, the five issued a statement admitting to 12 illegal wiretaps from 1972 to 1974.

Evidence of a much larger wiretapping scheme began to mount when Howard Lucas, the former security chief of Stouffer's Hotel in Cincinnati, recalled a 1975 incident in which he stopped Gates, West and several police officers from going into the hotel's phone room about a month before a visit by President Ford.

Two days later, Lucas found a voice activated recorder and wiretapping equipment in the locked room. He said he told the Police Department and the phone company about the equipment, "but I couldn't get anybody to claim it, so I just threw it in the dumpster."

The allegations of industrial espionage prompted GE executives to meet with Draise and Gates. According to Draise, GE counsel David Kindleberger expressed astonishment when told the extent of the tapping at the plant and linked it to the apparent loss of proprietary information to Pratt & Whitney, a competing manufacturer of aircraft engines.

Kindleberger, through a GE spokesman, now says he never discussed Pratt & Whitney or any competitive situation with Draise, but an attorney who sat in on the meeting supports Draise's version.●

NATIONAL RECYCLING MONTH

● Mr. CHAFEE. Mr. President, on April 5 the Senate unanimously approved Senate Joint Resolution 61, a joint resolution I introduced designating April as National Recycling Month. The passage of this joint resolution signifies our recognition of the importance of recycling in reducing the waste generated by Americans.

I was pleased to learn that the President has shown a significant interest in my joint resolution. I understand that President Bush is planning to issue a proclamation in commemoration of National Recycling Month.

Recycling is a concept whose time has come. We are facing a crises in solid waste management in the United States. A few simple facts and figures serve well to illustrate the magnitude of the problem.

Each year, the United States generates about 160 million tons of solid waste—almost twice the amount generated 20 years ago. If this trend continues, the United States will be generating annually almost 200 million tons by the year 2000. Towns and cities in my home State, and across the Nation, are realizing that many of their city dumps will be full, and forced to close their gates in just a few short years. They have good reason to be concerned. Since 1970 the number of landfills accepting solid waste has reduced dramatically—from almost 30,000 to only 6,000. It has become virtually impossible to establish any new landfill sites due to both the rising value of land and real estate and what I call the "not in my backyard syndrome."

In the coming weeks, Senator BAUCUS and I will introduce legislation to establish a national policy for dealing with municipal solid waste, emphasizing the importance of recycling of waste.

A successful U.S. recycling effort will require the cooperation of every citizen. To encourage that cooperation we must increase awareness among Americans about the benefit and importance of recycling, through public education. Reducing the amount of household garbage we generate poses the most difficult of public policy problems: changing human habits. The purpose of designating April as National Recycling Month is to make people aware that their actions do have a critical impact on reducing the amount of garbage entering the waste stream. All of us must understand that our garbage does not disappear when a sanitation worker loads it into a truck. Our society must be made aware that there are very real costs, both financial and environmental, associated with the continued proliferation of municipal garbage.

How can consumers contribute to the total reduction of garbage entering the solid waste stream? There are two concrete actions they can take. First, to show a preference for store items which can be recycled, and which do not use an excessive amount of packaging. Consumers must be made aware that there is an additional price to be paid for the 16 billion disposable diapers, the 2 billion disposable razors, 1.6 billion pens, and 220 million tires discarded each year. By some accounts up to 40 percent of all household garbage is packaging. In 1985, consumers paid $29 billion for food packaging, a cost exceeding the total price paid to farmers for the contents of those packages. Consumers can reduce waste by using goods that are durable and reusable, such as ceramic plates instead of paper plates; by reusing microwave serving plates; and by using a diaper service, which in most cases is competitive with the cost of disposable diapers; by composting yard wastes such as leaves; and by repairing, instead of disposing of, broken home appliances.

Second, all Americans can learn about and practice sound disposal methods at an early age, so that by adulthood those practices will be automatic. The primary reason we have selected April as National Recycling Month is to provide schools with an opportunity to organize appropriate educational activities to promote recycling activities before the summer recess. I hope that my colleagues will encourage schools in their states to observe recycling month with such activities.

The designation of April as National Recycling Month will be a success if more Americans are made aware that their personal handling of recyclable waste can save energy, improve our ability to store or treat waste, and protect the environment. I hope all of my colleagues will work with their home States to promote National Recycling Month.●

HIGHER EDUCATION: THE REAL CRISIS

● Mr. SIMON. Mr. President, I would like to submit an article by the distinguished president of Columbia University, Michael I. Sovern, titled "Higher Education: The Real Crisis."

Mr. Sovern is on the frontline of the struggle to improve the availability and quality of higher education in the United States. His article explores several important issues. There are clearly some issues that we, as legislators, cannot answer directly with legislative solutions. However, we can do more. We can do more to improve our schools. We can do more to make teaching a respected profession and to pay teachers as professionals. We can do more to improve our facilities and to preserve important academic and literary documents from decay. We can do more to encourge young Americans to pursue higher education through increasing the availability of student financial aid, including grants and work-study programs.

Mr. President, Michael Sovern is doing more. I would like to recognize his contributions and commitment to education.

I ask that a copy of "Higher Education: The Real Crisis" be printed in the RECORD.

The article follows:

[From the New York Times Magazine, Jan. 22, 1989]

HIGHER EDUCATION: THE REAL CRISIS

(By Michael I. Sovern)

On the afternoon of May 18, 1988, Commencement Day at Columbia University, more than 25,000 people—including 7,000 degree candidates and their families—sat outdoors beneath a driving rain, wondering what would happen to the graduation exercises.

Watching the torrential skies from the podium, I was moved to announce that in my hand was an important, if somewhat dampened, commencement address, but I would not inflict it on anyone in this weather. Not surprisingly, the crown cheered wildly. To shorten the ceremony further, I asked the deans of the university's schools and colleges to stand together and confer their degrees all at once, dispensing with the traditional school-by-school ritual. This time, the graduates booed.

It was strong evidence that the young men and women graduating today from our institutions of higher learning are as proud as ever of their academic achievements. The message that never got delivered was a warning that the next generation might not be so lucky. In my address, I would have told the audience that American young may soon be deprived of what has long been recognized as the best higher education in the world. This sector of the economy—currently educating more than 12.5 million people and employing 2 million more, including a large number of the world's Nobel Prize-winners—still surpasses the foreign competition. But I am convinced that it will be irreversibly damaged unless Congress and President Bush—whose campaign included a promise to be the "education President"—act promptly.

A unique blend of public and private effort, higher education is so much a part of our national life that most Americans take its excellence for granted. Few are aware of the grave danger of decline posed by the aging of the nation's professors. By the year 2000, many of our great teachers will have retired, and too many of those with the potential to become great teachers will have been lured into far more lucrative careers in business and the professions.

A generation ago, many students graduating at the heads of their class were convinced that an academic career represented their finest opportunity. When I graduated from Columbia Law School in 1955 and accepted an invitation to become an assistant professor of law, I considered myself very lucky. Not only would I fulfill my deepest aspirations, I would enjoy the prestige of a highly respected profession and, believe it or not, make more money than those who took an entry-level job at a major law firm. Throughout the 50's and well into the 60's, Columbia's most sought-after graduates frequently chose law faculties over law firms.

The world of the 1980's is vastly different. My son commanded a higher salary when he began at a prestigious law firm than I did when I became dean of the law school. When he later opted for an academic career, he took a one-third cut in pay. Many of his contemporaries have been unwilling to make that choice. As I looked out over the sea of faces on that rainy Commencement Day, I wondered how many of those graduates we were losing as future faculty members. I recalled a party for first-year law students some years back. Chatting with a quartet of bright freshmen, I was astonished to discover that all four were Ph.D.'s. Indeed, three had been assistant professors of humanities. They had come to the conclusion late, but they were not unusual: for them, the practice of law held brighter prospects than a life in the university.

I could multiply these instances by the dozen at Columbia alone; nationally there are thousands, those very thousands we need to replace our maturing faculty. At Columbia, nearly half of the tenured professors in the arts and sciences will retire in the 1990's. Colleges and universities all over the country are facing a massive wave of retirements.

This is the real threat our universities face—not the intellectual decay that highly publicized critics allege is being fomented by new curricula. Prof. Allan Bloom of the University of Chicago, author of the provocative book, "The Closing of the American Mind," laments the passing of traditional general education—a report of our death which is, as Mark Twain would say, greatly exaggerated. In his obituary, Professor Bloom writes, "Those great universities—which can split the atom, find cures for the most terrible diseases, conduct surveys of whole populations and produce massive dictionaries of lost languages—cannot generate a modest program of general education for undergraduate students."

This is simply not true. A number of institutions—like my own—never abandoned their core curricula. Lionel Trilling stated Columbia's academic creed when he insisted that a student "must experience and understand . . . a certain minimum of our intellectual and spiritual tradition . . . to be called educated." Not all colleges found the courage and vision to sustain that idea during

the assault on curricula in the 1960's. But some did, and others have been returning to the fold.

Professor Bloom's polemic is tardy, more appropriately addressed to higher education 20 years ago than to the colleges of today. He is also a victim of the "golden age" fallacy. There may have been a time when our nation's institutions of higher learning did a better job than they do now, but I doubt it, especially when we consider that the number of students being served has risen 10-fold in our lifetime, five-fold since World War II. Diversity is an inescapable consequence—in my view a healthy one.

Before the war, one out of every 10 young Americans sought a college degree. Today, more than half do. Federal aid to students, beginning with the G.I. Bill of Rights in 1944, has been a crucial factor in this development. Tuition and living-expense benefits were also made available to veterans of the Korean War. The launching of Sputniks I and II in the fall of 1957 led the following year to the National Defense Education Act, proposed by President Eisenhower, directing Federal loans and graduate fellowships to students in the sciences.

The landmark Higher Education Act of 1965, a mainstay of President Johnson's Great Society programs, put in place the three major elements of student aid—grants, loans and work-study. Military service and subject areas linked to national defense were no longer criteria. Federal aid was available to anyone with financial need who wished to pursue higher education.

In 1971, Rhode Island Senator Claiborne Pell introduced legislation, developed by the White House and Congress, for what became known as "Pell grants," broadening access to college and other post-secondary education. Student aid's last growth phase was nurtured by the Middle Income Student Assistance Act of 1978, liberalizing eligibility for Pell grants and guaranteed student loans.

An abrupt new era of austerity in Federal education policy was ushered in with the change of Administrations in 1981. Benefits to college-age dependents under Social Security were eliminated and student grant and loan eligibility was slashed. By 1987, the purchasing power of Federal student aid had been cut by nearly 18 percent. The maximum Pell grant, which paid for about half of private college tuition when first enacted, today covers no more than 30 percent. Roughly half of all Federal aid to students is now in the form of loans, raising important questions for career choice and the financing of graduate education.

The problems we face are rooted in a seldom-discussed phenomenon of the 1960's—the post-Sputnik boom, when our universities granted tenure to thousands of young professors. As a result, a bumper crop of Ph.D's in the 1970's found an inhospitable marketplace: the faculty jobs they sought were filled and would stay filled until the waning days of the century. Seeing their fate, many of our most promising young people went to professional schools in pursuit of other careers. Many, if not most, of a generation of top scholars were lost forever to our colleges and universities. The pattern has been particularly marked in the humanities and the social sciences. Engineering education is also threatened, not because teaching jobs have been hard to get, but because the needs of industry are so great that companies have been willing to pay what it takes to attract many of the best young engineers away from an academic career.

What will happen now? As more faculty vacancies occur, and competition for the most talented graduate students intensifies, relatively few universities will be able to replenish their academic strength. The fate of the remainder—the majority of America's institutions of higher learning, including many important universities—is in doubt. If they are forced to grant tenure to the second-rate, the downward spiral could become irreversible. Many institutions will have little choice: even as the supply of talent dwindles, the demand for college teachers will boom. In the mid-90's, we will enter a period of sustained increase in the number of 18-year-olds. Applications to colleges will soar.

High-quality graduate education is very costly to provide. The actual charges to students come nowhere near covering the costs, but tuition is still a formidable burden for any recent college graduate. To earn a Ph.D. at an independent university costs considerably more than $100,000 for tution and living expenses. The choices for potential Ph.D. candidates are clear: Go to work at once, go to law or business school and earn a high salary in a few years, or spend a longer time earning a Ph.D. to earn less as a professor. It is remarkable that over the years so many people have made that last choice, but fewer of the best have been making it lately.

Those who do enter the academy may be disappointed by what they find. The role of our research universities as world centers of excellence, engines of our national high-technology enterprise, is threatened by the decay of physical facilities as well as by the loss of faculty and students to other careers. Washington University in St. Louis estimates its basic renovation and modernization needs at a cost of $150 million. Vanderbilt University reports a maintenance backlog of $132 million.

Almost three years ago, the White House Science Council's Panel on the Health of the United States Colleges and Universities cited the "aging facilities, obsolete equipment and growing shortages of both faculty and students in many important areas." The panel, headed by David Packard, chairman of the Hewlett-Packard Company, noted that "our universities today simply cannot respond to society's expectations for them or discharge their national responsibilities in research and education without substantially increased support." A small step in the right direction was taken this fall when Congress enacted a new National Science Foundation program for the construction of facilities. But this modest effort only calls attention to the magnitude of the need.

Construction and renovation of university laboratories have not been supported by a Federal program since the 1960's. With new experiments requiring more sophisticated and expensive equipment, Federal funds for instrumentation are woefully insufficient. On our library shelves, millions of books that form the chain of human heritage, linking our past and our future, are slowly being destroyed. The average life of books printed on acid-based paper is less than half a century. Columbia University, where it is estimated that 30 percent of our almost 6 million volumes are in brittle condition, supports one of the most active preservation programs in the country, but the problem is a national one. The National Endowment for the Humanities has proposed a 20-year effort to meet the need, and Congress recently appropriated $12.5 million for this year. Future support is essential if we are to save our great respositories of knowledge for succeeding generations.

Many elements of our society must bear the fiscal responsibility for maintaining excellence and opportunity in higher education—students and their families, states, corporations, foundations and colleges and universities themselves. Students and their families are already called upon to make substantial sacrifices before receiving help. America's institutions of higher learning are doing their share, adding scarce dollars to student aid and intensifying their efforts to insure opportunities for women and minorities. At Columbia, a $25 million gift from John W. Kluge, an alumnus, for minority scholarships will also allow us to forgive a portion of undergraduate loans to Columbia College graduates who later earn a Ph.D. at Columbia or elsewhere. This is a small but important step toward building the ranks of minority teacher-scholars in the nation.

In the weeks ahead, dozens of worthy programs will be considered by the new Bush Administration, only to be rejected on the grounds of fiscal responsibility. I submit that the preservation of American higher education is the very essence of fiscal responsibility, an indispensable investment in our national future.

Without excellence in our colleges and universities, we will damage our prospects for a coherent foreign policy, supported by knowledge of other cultures, that will advance international trade and the cause of world peace. We will lose our lead in the biotechnology race, delay possible solutions to cancer and AIDS, weaken the basic research that has made us the nation we are. And we will dash our hopes for an informed and cultivated citizenry, a vibrant economy, a future rich with promise for our children.

SIX IMPERATIVES FOR THE 1990's

In the next phase of American higher education, extending through the 1990's, the key issues requiring Federal attention will be the education of new faculty, the revitalization of research facilities and opportunities for minorities.

If ever there was a nationwide emergency, seen clearly in advance so that those about to assume power could plan timely action, it is the critical need to recruit the best possible graduate students and prepare them to take the place of their teachers.

I urge President Bush and Congress to take these six steps:

Fund a sufficient number of graduate fellowships—to be awarded on the basis of merit—to assure a flow of the highest-quality faculty to America's campuses. This means a thorough overhauling of the underfunded, poorly administered Title IX program of the Higher Education Act, and greater funding for such efforts as the National Science Foundation graduate fellowships and the new Department of Defense fellowships in science and engineering. To enhance minority opportunity in graduate education, the Federal Graduate and Professional Opportunity Program—which has been severely underfunded and limited mainly to students in engineering, law and the natural sciences—should be made available to more students and expanded to other fields.

Pay the full costs of federally sponsored research, including the costs of instrumentation, libraries and laboratories. This need not entail an overall increase in research funding. A modest shift from applied defense research to basic research would be

more productive in general, strengthening our economy and yielding advances that could have a civilian as well as a military purpose.

Establish a long-term program to repair the damage to the physical plant that has already occurred and prevent further erosion.

Restore the real dollar value of Pell grants, work-study and related programs so that the American dream of attending the best possible college is once again within the reach of every high school senior who possesses the requisite talent and commitment.

See that the tax laws serve, not subvert, the national interest in education and research. Recent tax amendments do serious harm to higher education while yielding only modest revenues—e.g., taxing employees when the companies that employ them pay their tuition for graduate school. Others discriminate against independent institutions and diminish traditional incentives for private support of higher education.

Promote the newly authorized Federal education savings bonds—the interest on which would be tax-free when used for the payment of college tuition, thus encouraging national saving and helping families meet the cost of higher education. Since these bonds could carry a lower interest rate than other United States bonds, the savings in government interest costs would cover some of the revenue loss attributable to the tax-exempt feature.

All six of the proposals I have outlined above—affecting graduate fellowships, research, facilities and instrumentation, undergraduate aid, tax policy and savings bonds—together would cost only a fraction of 1 percent of the Federal budget. They would repay that investment many times over, strengthening our nation's most fundamentally productive asset—an enterprise that pays immense dividends in knowledge, technology and, above all, in the people who lead America to greatness.—M.I.S.●

COMMUNITY CARE OPTIONS ACT

● Mr. SIMON. Mr. President, I am honored to be an original cosponsor of the Medicaid Home and Community Care Options Act with my distinguished colleague, Senator ROCKEFELLER.

This is an important step in the continuing fight for comprehensive long term health care for all Americans.

There are only two countries in the industrialized world that do not provide care for it's older citizens; South Africa and the United States. I know we can do better.

Too many older Americans are forced into institutionalized care. Too often older Americans are denied the dignity and comfort of being able to stay at home. A typical example is an older women who is getting frail, whose husband suffers a stroke and no longer can bathe himself. She is too weak to help him. Their children live thousands of miles away and they don't know what to do. They worry about their mother's health as well as their father's well being. Finally, they send him to a nursing home. Where do they turn?

They are not ill. They do not need medical attention. Yet, they are forced into a nursing home because there is no other option.

This bill would allow more older Americans to stay at home and keep their independence. An independence they deserve and cherish.

I am proud to be apart of this much needed bill.●

JACKSON-VANIK AMENDMENT/ REMARKS BY HELEN JACKSON

● Mr. DECONCINI. Mr. President, the ongoing debate surrounding the question of a Jackson-Vanik waiver is intensifying as the administration and the Congress wrestle with the issue of how to respond to Mr. Gorbachev's reform initiatives. In light of this, the remarks made recently by Helen Jackson, wife of the late Senator Jackson one of the authors of the Jackson-Vanik amendment, seem particularly appropriate. Mrs. Jackson contends that the Jackson-Vanik amendment has played an important role in exercising the leverage it was designed to exert; namely, the expansion of commercial relations with the Soviet Union is contingent upon that country's willingness to implement as national policy the right of the individual Soviet citizen to emigrate.

Mr. President, many believe the Jackson-Vanik amendment has not been successful. They point to the precipitous drop in emigration numbers—until recently—since the amendment was adopted in 1974. The other side of the argument, however, makes a strong case for the amendment's efficacy. It is, as Mrs. Jackson observes, "at the heart of the ongoing bargaining with Moscow for freer emigration." It is a point of leverage now more than ever.

The Soviet Union is in the midst of a severe economic crisis. The application of western technology in several domestic Soviet industry sectors and the resulting revenues from hard currency exports to the West, which expanded trade with the Soviet Union would presumably generate, are seen as key components to a successful economic solution to Mr. Gorbachev's troubles. The Jackson-Vanik amandment has acted as a strong reminder to the Soviet leadership that access to our domestic market through the liberalized tariff schedule which most-favored-nation [MFN] status would give them will not come without an institutionalized implementation of the individual's right to emigrate.

The underlying nature of Mr. Gorbachev's crisis is not just economic, however. It is indicative of a broader, systemic failure in the Kremlin's traditional philosophy of government. It goes to heart of what the Helsinki accords were designed to address. Agreed to in 1975 by the United States, Canada, the Soviet Union and 32 Other West and East European nations, the accords are based on the principle that trust among nations comes primarily from the degree of trust which exists between each country's citizens and those who govern them. The accords speak to the right of the individual to expect that certain basic freedoms will be honored in practice as well as on paper. The right to emigrate is, as Senator Jackson said, "the touchstone of human rights, the lifesaving liberty of last resort."

Yes, emigration numbers in the Soviet Union have risen dramatically. But is the right of each Soviet citizen to emigrate being honored and implemented as national policy? The answer regretably is no. Soviet citizens are still subjected to an arbitrary emigration policy which, absent the protection of institutional safeguards, could be reversed at any moment. Restrictions such as a regulation which requires would be emigres to be sponsored by a first degree relative in the West is currently the rule of law. This stricture immediately eliminates thousands from even applying. The refusenik community, those who have applied to emigrate but have been denied permission, still numbers far too many. And, we understand that the much-touted reforms in emigration law will not be published this spring as expected. In fact, according to a recent conversation with Arkady Vaxberg, a well-known member of Moscow's liberal intelligentsia, the only probable change in emigration law this year will be to allow members of national minorities with first degree relatives in the West to emigrate.

This is not reform, Mr. President. It is business as usual. Until we see emigration laws which truly reflect on paper and in practice compliance by the Soviet Union with its Helsinki obligations, it would be a betrayal of those whose cause we have been supporting for so many years to release one of the few remaining instruments of leverage we have. A Jackson-Vanik waiver depends on how the Soviet leadership reforms its policy, not on whether we in the United States intend to change ours.

Mrs. Jackson speaks eloquently to these concerns and I respectfully ask that her remarks be reprinted, at this point, in the RECORD.

The remarks follow:

REMARKS BY HELEN JACKSON, JEWISH FEDERATION'S BUSINESS AND PROFESSIONAL FORUM

Not surprisingly, the Jackson-Vanik amendment is again becoming a "hot topic." I believe my husband would have enjoyed this. The amendment is just where he hoped it would be: at the heart of ongoing bargaining with Moscow for freer emigration.

Perhaps as much as any member of Congress in his time, he saw the preservation

and nurturing of human rights as a central obligation of the United States. His flag and standard was the Universal Declaration of Human Rights. And of all the individual freedoms affirmed in the Declaration, none was more fundamental to him than the right to emigrate. He called the right to emigrate the "touchstone of human rights, the life-saving liberty of last resort."

While championing respect for human rights as a national obligation, my husband was always enormously sensitive to the particular individuals struggling for freedom—Andrei Sakharov, his wife Elena Bonner; refuseniks Alexander Lemer, Vladimir Slepak, and Professor Naum Meiman; the Baptist pastor Georgi Vins; Ida Nudel, inspiration to countless prisoners of conscience; Simas Kudirka, who didn't make it on his first jump to freedom; Valery and Galina Panof, denied the chance to dance; the poet Huber Matos, imprisoned in Cuba and so on.

By the late 1960s my husband had been deeply moved by the courage and heroism of the many hundreds behind the Iron Curtain who were prepared to risk everything to gain freedom in Israel and the West. Then, in 1972, the Kremlin instituted the notorious "education tax" designed to further curtail and deter emigration efforts—particularly Jewish emigration. That was, for Scoop, the last straw.

At about this same time, the Nixon-Kissinger Administration was seeking legislation from Congress that would make the Soviets eligible for most-favored-nation tariff treatment and subsidized U.S. government lending. Scoop saw the opportunity and seized it. He initiated his amendment which would allow the granting of these concessions to the Soviet Union and other nonmarket countries only if they showed respect for the right of citizens to emigrate. The Jackson-Vanik amendment does not affect trade on a pay-as-you-go basis. And it applies to Jews, Christians and others without discrimination on the basis of race, religion or national origin.

It took an historic two-year struggle to secure passage of the amendment. Finally, in the fall of 1974 the Congress and the Administration reached a compromise. In exchange for explicit Soviet assurance for freer emigration—reported to the Congress by letter and in testimony by Secretary of State Kissinger and confirmed by President Ford—provision was made for a Presidential waiver of the amendment. A President was authorized to grant a waiver, annually subject to congressional approval, if he reports to Congress that he has determined such waiver will substantially promote the objective of free emigration, and that he has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of free emigration.

The amendment then became the law of the land by overwhelming votes.

In January 1985, the Soviets renounced the trade agreement with the United States of which the provision of MFN was to be a part and withdrew from the assurances that had been conveyed to the congress by Secretary Kissinger. The Soviets have never given an explanation for this abrupt reversal.

Today they remain ineligible for U.S. trade benefits and special subsidies unless the President meets the conditions of Jackson-Vanik, including reporting to Congress that Moscow has provided the requisite assurances to permit freer emigration in the future.

The Jackson-Vanik amendment has had important success. Moscow backed away and shelved its infamous "education tax;" tens of thousands of Jews and many non-Jews have gained their freedom in Israel and other Western countries in no small part because of the amendment; the stage was set for the inclusion of freedom of emigration and other human rights provisions in the Helsinki Final Act; successive U.S.-Soviets summit meetings have been impelled to put the issue of freedom of emigration on the agenda; Moscow has discovered that improvements in U.S.-Soviet relations cannot be made without a change in its approach to freer emigration and other fundamental rights.

We are now in the early years of Mikhail Gorbachev. The Soviet economy is in grave disaray and Gorbachev is seeking help from the West in his efforts at economic reform and recovery. To get help he knows he must alter his image in the West-and that means cleaning up the Soviet human rights record. This situation gives us and our government a great opportunity for substantial successes. The danger is that we and our leaders may fumble the chance.

Gorbachev has gained much attention by allowing the emigration of high-visibility prisoners and well-known refuseniks. The level of emigration is rising over that of recent years. But will the trend continue? And how far will it rise? In comparison with the 400,000 Jews who have made their first step to emigrate, current numbers allowed to emigrate are still small.

And what about the recent Soviet law providing that only those with first-degree relatives living abroad have the right to apply for a visa? In effect this means that of the 400,000 Jews who wish to emigrate more than 90% cannot even apply for a visa.

I see that at a January meeting the governing council of the American Jewish Congress voted to recommend to other ogranizations that they agree to support a waiver of the Jackson Amendment, on the basis of *current* Soviet performance. I also note that Congressman Vanik has proposed the granting of a two-year waiver of Jackson-Vanik, presumably also on the basis of *current* improvements of Soviet practice.

That won't do for me. In fact, the law does *not allow* that. There must be assurances about *future* improvements *first*, conveyed to the congress. And a waiver longer than a year would require amending the law. Opening Jackson-Vanik to modification involves serious risks that changes might be legislated—some might overburden the amendment with issues beyond the right to emigrate; some might delete key provisions and, in effect, emasculate the amendment.

What about the required assurances? That is what we need to focus on.

For one thing, we should challenge the Soviet law which stipulates family reunification as the sole legal base of emigration, in effect, limiting visa applicants to first-degree relatives. In their time and on their watch, Scoop and his colleagues took on the "education tax" and won. Today, the Soviet leaders should receive *no* encouragement that we will settle for less than the abolition of the "family reunification" restriction on visas.

Beyond this, I am glad to see that Natan Sharansky and other leaders in the Jewish community are now proposing that the Soviet put strict legal and administrative procedures in place, such as establishing a short time frame for the handling of applications to emigrate and providing the opportunity for legal appeal in the cases of refusal on security grounds.

In short, we should use the opportunity given by Jackson-Vanik to help fashion a set of assurances, to be negotiated by the Administration with Moscow, comparable in significance to the 1974 assurances for freer emigration. These were, after all, the precondition for Congressional assert to the waiver provision in the first place. It would now be a grave mistake to settle for less than the Jackson-Vanik Amendment requires—and less than it was possible to negotiate fifteen years ago.

In 1986, Natan Sharansky came to the Capitol in Washington, D.C. Appearing before a congressional committee, he said, "Experience has taught the Jews of the Soviet-Union—has taught me while I was in the camps struggling against the KGE, that lesser demands and fewer expectations lead to a situation where our aggressors feel that they should be rewarded for cosmetic concessions."

The challenge for all of us is clear. In the days ahead we must see to it that Congress and the Administration do not reward Mikhail Gorbachev for cosmetic concessions. They must not only maintain the integrity of the Jackson amendment; they should be persuaded to use it faithfully and wisely for futher success in the cause of individual liberty.●

RULES OF THE COMMITTEE ON THE BUDGET

● Mr. SASSER. Mr. President, pursuant to rule XXVI(2) of the Standing Rules of the Senate, I submit for printing in the CONGRESSIONAL RECORD the rules of the Committee on the Budget for the 101st Congress as adopted by the committee this morning.

The rules follow:

RULES OF THE COMMITTEE ON THE BUDGET
101ST CONGRESS

I. MEETINGS

(1) The Committee shall hold its regular meeting on the first Thursday of each month. Additional meetings may be called by the chairman as he deems necessary to expedite committee business.

(2) Each meeting of the Committee on the Budget of the Senate, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee determines by record vote in open session of a majority of the members of the committee present that the matters to be discussed or the testimony to be taken at such portion or portions—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of the committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the inves-

tigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(i) an act of Congress requires the information to be kept confidential by Government officers and employees; or

(ii) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

II. QUORUMS

(1) Except as provided in paragraphs (2) and (3) of this section, a quorum for the transaction of committee business shall consiste of not less than one-third of the membership of the entire committee: *Provided,* That proxies shall not be counted in making a quorum.

(2) A majority of the committee shall constitute a quorum for reporting budget resolutions, legislative measures or recommendations: *Provided,* That proxies shall not be counted in making a quorum.

(3) For the purpose of taking sworn or unsworn testimony, a quorum of the committee shall consist of one Senator.

III. PROXIES

When a record vote is taken in the committee on any bill, resolution, amendment, or any other question, a quorum being present, a member who is unable to attend the meeting may vote by proxy if the absent member has been informed of the matter on which the vote is being recorded and has affirmatively requested to be so recorded; except that no member may vote by proxy during the deliberations on Budget Resolutions.

IV. HEARINGS AND HEARING PROCEDURES

(1) The committee shall make public announcement of the date, place, time, and subject matter of any hearing to be conducted on any measure or matter at least 1 week in advance of such hearing, unless the chairman and ranking minority member determine that there is good cause to begin such hearing at an earlier date.

(2) A witness appearing before the committee shall file a written statement of his proposed testimony at least 1 day prior to his appearance, unless the requirement is waived by the chairman and the ranking minority member, following their determination that there is good cause for the failure of compliance.

V. COMMITTEE REPORTS

(1) When the committee has ordered a measure or recommendation reported, following final action, the report thereon shall be filed in the Senate at the earliest practicable time.

(2) A member of the committee who gives notice of his intention to file supplemental, minority, or additional views at the time of final committee approval of a measure or matter, shall be entitled to not less than 3 calendar days in which to file such views, in writing, with the chief clerk of the committee. Such views shall then be included in the committee report and printed in the same volume, as a part thereof, and their inclusions shall be noted on the cover of the report. In the absence of timely notice, the committee report may be filed and printed immediately without such views.●

THE HONORABLE WILFRED L. EBEL

● Mr. DECONCINI. Mr. President, the efforts of American veterans have molded the free world into a place where we can enjoy freedom and liberty. I have long believed that we Americans fail to recognize the benefits flowing from the sacrifices of our veterans. In an attempt to recognize those sacrifices, I have always striven to provide American veterans with the quality facilities and services that they need and deserve.

This is a hallmark year for Arizona veterans. We look forward to the construction and renovation of several VA facilities. We recently broke ground on an $11.1 million domiciliary; we will finish a $6 million 60-bed nursing home next month in Prescott; and we gained additional money to assure the on-time construction of a $6.573 million 120-bed nursing home in Tucson. In addition, we are presently in the design phase of a $60 million bed-addition to the VA Medical Center in Tucson. As always, I will continue to work hard to protect the interests of Arizona veterans.

Not only must we care for veterans during their lives, but we must also care for them in their final rest as heroes in the hallowed grounds of a national cemetery. Last Saturday, we Arizonans celebrated the introduction of the Arizona Veterans Memorial Cemetery into the U.S. Department of Veterans' Affairs National Cemetery System. The landmark ceremonies culminated years of effort to achieve the objective of creating a national cemetery at this beautiful site. When I looked across the grounds of the cemetery, I was reminded of the many times that I have been there to honor the brave men and women who served our country with courage, devotion, and unsurpassed loyalty to the American ideals of freedom and justice. I remembered the dedication and lighting of the eternal flame which still burns brightly in memory of the heroes who rest there. The introduction of the Arizona Veterans Memorial Cemetery into the VA National Cemetery System indeed culminated the collective dream to memorialize those heroes.

This landmark event brought to mind the devotion of the Honorable Wilfred L. Ebel, Chief Memorial Affairs Director for the Veterans' Administration in Washington, DC. Director Ebel has prioritized the creation and expansion of cemetery facilities for veterans in an effort to make the national cemeteries "places to rejoice as much as to grieve."

In remembrance of the veterans who died in World War II, Mr. Ebel addressed the Pearl Harbor Survivors Association at the U.S.S. *Arizona* Anchor, Bolin Plaza, in Phoenix, AZ, on a very notorious day in American history: December 7, 1988. That day marked the 47th anniversary of Pearl Harbor Day, the day that Franklin Delano Roosevelt referred to as "a date which will live in infamy." In his address, Mr. Ebel reminded us of the 2,000 victims that died that day, and of our need to keep the same faith in them that they had in our country. We as a nation must never forget the sacrifice that all veterans have made for us, that we might share in the liberty and freedom that make this Nation the great bulwark of the free world. Like Mr. Ebel, I am a strong supporter of the elevation of the VA to a Cabinet-level department. In his address, Mr. Ebel presented the challenge to all Americans to fulfill their responsibilities to America's veterans as a matter of professional pride and personal honor. This Senator accepts Mr. Ebel's challenge and pledges continued support of veterans.

Mr. Ebel delivered a powerful message that deserves the attention and recognition of not only veterans, but lawmakers and the entire public. For that reason, I ask that his speech be entered at this point in the CONGRESSIONAL RECORD.

The remarks follow:

THE WORLD WAS FOREVER CHANGED THAT DAY

(By Wilfred L. Ebel)

It's a special privilege to pay tribute to Pearl Harbor survivors. Through your heroic performance a great cause was served.

On December 7, 1941, without warning, all hell broke loose. By the time the sun set that catastrophic Sunday, many of you had experienced the worst day of your life—and over 2,000 of your comrades had experienced the last day of their life.

The world was forever changed that day. I'm struck with awe by what it must have been like for you to personally witness our nation's being thrust into war. I wonder if anyone here was on board the USS Destroyer Ward when it fired the first American shots of World War II.

"The terrible loss of life, ships and planes at Pearl Harbor galvanized the American spirit and purpose in a national determination to fight."

The next day President Franklin Roosevelt told Congress "with confidence in our Armed Forces, with the unbounded determination of our people, we will gain the inevitable triumph, so help us God."

The terrible loss of life, ships and planes at Pearl Harbor galvanized the American spirit and purpose in a national determination to fight. We were quickly on the offensive, following the formula that Admiral William Halsey was to give for waging war: "Hit hard, Hit fast. Hit often."

President Roosevelt's confidence in you and your buddies in uniform was rewarded. The very same flag that flew over Pearl Harbor on Dec. 7, 1941, was flying over the White House when the enemy accepted surrender terms on Aug. 14, 1945.

The unit of purpose that made our forces victorious was part of the same American strength that has produced war heroes from the nation's earliest days. After all, this country was founded, and its ideas pre-

served, by young men and women who gave back to their country some of what this nation had given them, so that all of us and generations to come can enjoy the liberty and bounty of America.

"Being prepared for defense has as much to do with how we treat those who already have served. . . ."

American fighting men have always given their best. American history is what it is because these young Americans kept faith with their country. Now it's up to us to keep faith with them.

Being prepared for defense has as much to do with how we treat those who already have served as how we treat those we would recruit in the future. For it would be unthinkable to ask Americans to risk their lives for their country without being able to assure them that their country will be ready to do the same for them.

Starting next March, a person who speaks for all veterans will sit at the President's table with the other cabinet members of our government. Veterans' voices will be heard. And that's crucial in today's America. Because the longer we enjoy our peace, the harder it is to remember on what—and with whom it rests.

We must ensure, as America grows away from thoughts of war and, hopefully, into a future of peace, that the voice of Americans who were there when they had to be, will be heard at the highest level.

The elevation of the VA to a Cabinet department is an important step toward keeping this country's commitments to generations of America's veterans.

One of those commitments is to provide a forever hallowed resting place for them among their comrades. In the VA National Cemetery System we have a commitment to preserve and perfect our national shrines into perpetuity to maintain the tradition begun in 1862 with President Lincoln's signing legislation to create this burial privilege. To do it with dignity and compassion.

"We pledge to continue to fill our responsibilities to America's veterans as a matter of pride and personal honor."

In VA we have the challenge of developing new facilities in regions that will serve the most veterans. We expect to open a new veterans cemetery in Northern California in 1991. Congress has asked VA to look at properties available for national cemetery development in Chicago, Cleveland, Seattle, and Albany, N.Y.—four areas with large veteran population but no national cemetery close by. We are working with community groups in other cities to try to expand certain facilities that would otherwise close very soon.

Our goal is to make our national cemeteries places to rejoice as much as to grieve, places for the living as much as for the deceased. This is important not only because it's a bond with our future, between the veteran, the next-of-kin and the government that called the citizen to arms. We pledge to continue to fill our responsibilities to America's veterans as a matter of professional pride and personal honor.

Those of you who served at Pearl Harbor that fateful day were a diverse group. You came from differing backgrounds, differing walks of life, differing political viewpoints. But you were united in one respect—your love of our counry and your willingness to defend it.

Your sacrifices won for us the most precious gift of all—the gift of freedom. America is the land of the free because it is the home of the brave.●

JACKSON-VANIK

● Mr. D'AMATO. Mr. President, I rise to bring to the attention of my colleagues an article written by my good friend and distinguished colleague on the Helsinki Commission, Senator DECONCINI, that appeared in the Wall Street Journal on April 14, 1989. It is entitled, "Don't Waive Jackson-Vanik Yet."

As Chairman of the Helsinki Commission, Senator DECONCINI has rare insight into the tumultuous changes occurring in the Soviet Union. This article is striking in its clear statement of the complex questions regarding Soviet emigration, and in my view could not be more timely. I think other members would benefit from taking the time to study his analysis.

I can add little to his lucid and forthright assessment. Mr. President, I ask that the article be entered into the RECORD, and reprinted in its entirety.

The article follows:

DON'T WAIVE JACKSON-VANIK YET

(By Dennis DeConcini)

The debate over the Jackson-Vanik Amendment, which limits U.S. trade with the Soviet Union because of that country's restrictive emigration practices, illustrates the central question governing U.S. policy toward Soviet reforms. Should the U.S. indicate a good-faith belief in the future of the reforms and, for example, expand trade by exercising an annual waiver of Jackson-Vanik, or should it wait until the right to emigrate becomes Soviet policy by law and in practice?

Recall Mikhail Gorbachev's words after the December 1987 Washington summit: "I must tell you that if one sticks firmly to the facts and does not slip into exaggeration, then it is too early at the moment to speak about a fundamental turning point in our relations. Too early yet."

The events of the past 15 months have not changed the relevance of these words. Although the forces for change that Mr. Gorbachev has set in motion are contributing significantly to the Soviet Union's improving human-rights record, the mix between rhetoric and reality in such areas as emigration does not yet warrant the kind of substantive shift in U.S.-Soviet trade policy that a Jackson-Vanik waiver would signal. The U.S. must be careful to keep in perspective the difference between developing a policy that mirrors the degree of reform actually taking place in the Soviet Union and one that is driven by an impatience to grasp at unconfirmed announcements made by the Kremlin.

Glasnost and *perestroika* are still in an experimental stage. If the U.S. acts prematurely and thereby assigns them a definitiveness the facts do not yet substantiate, there is a risk of inflating expectations in the West as well as in the East. This is not a prescription for lasting, fundamental change in East-West relations; it is a possible prelude to an even greater disillusionment than that which existed in the chilling years of Mr. Gorbachev's predecessors.

In any serious discussion of a Jackson-Vanik waiver, it is important to keep in mind that this legislation is aimed at eliciting changes in Soviet emigration policy as well as a quantitative increase in emigration levels. Here's a rundown of recent progress on that score:

In 1988 the number of Soviet emigrants jumped to 79,845 from 25,939 in 1987 and 1,797 in 1985. The picture is promising for this year, with projections of the number of Jews being allowed to emigrate reaching as high as 35,000 to 40,000. When the number of Jews is combined with Armenians, ethnic Germans, Pentecostals and others, the overall emigration figure could top 100,000. This is an encouraging development, but it is not yet grounded in law. Publication of a draft emigration law, scheduled for spring, reportedly will be delayed until fall as Kremlin policy planners struggle with the realities of drafting and agreeing on substantive reforms.

In January, at the Vienna meeting of the Conference on Security and Cooperation in Europe, the Soviet Union agreed to respect "the right of everyone . . . to leave any country, including his own, and to return to his country." This is the most explicit language yet agreed to by the Soviets with respect to the right to emigrate. Given the Soviet Union's record of unkept promises, it wise to wait at least until a more complete pattern of compliance has emerged. A group of Soviet women refuseniks recently participated in a three-day hunger strike to remind the world that they and thousands of others have not yet benefited from these commitments.

The refuseniks are evidence of an emigration policy that remains arbitrary and unnecessarily restrictive. Take the case of the Emmanuel Lurie family. On Feb. 10, Mr. Lurie was denied permission to emigrate for the ninth consecutive year because he allegedly had access to "state secrets" in a job he held 25 years ago as a junior chemist. Mr. Lurie's work in 1964 was not considered classified at the time, yet it somehow became a threat to national security when he applied to emigrate more than a decade later. Although Soviet authorities may indeed be formulating laws designed to reverse this situation, it is only fair to those who have been waiting years for tangible evidence of this to require proof up front. This places the ball in the Soviet's court, not America's.

Many in the U.S. business community concede that a Jackson-Vanik waiver would be more of a political than an economic boost to U.S. Soviet trade; there aren't many Soviet products competitive enough to export. A Jackson Vanik waiver would not remedy the Soviet Union's economic crisis—a crisis that can be resolved only through tough internal political decisions.

Until Soviet leaders effectively implement policies that will provide for the rapid growth of a desperately needed consumer industry, and until they transfer significant funds from the defense budget to pay for the domestic restructuring—to name just two of the difficult, tasks facing Mr. Gorbachev—U.S. trade with the Soviets will remain fairly static. U.S. economic cooperation will benefit both sides only when it is a response to reform, not a substitute for it.●

VOLUNTEER SERVICE

● Mrs. KASSEBAUM. Mr. President, I take this opportunity to join the Nation in paying tribute this month to the more than 80 million Americans who volunteer their time each year on behalf of others.

President Bush has made volunteer service a cornerstone of his vision for a "kinder, gentler America." At long last, it would seem, America's volunteers are beginning to receive the recognition and encouragement they deserve.

From health care to politics to education, volunteers make quiet, though indepsensible, contributions to America's quality of life. All of us benefit, either directly or indirectly, from the selfless efforts of those who donate their time and talent to nursing homes, schools, libraries, and parks all across the country.

As an example of voluntarism at its best, I would like to highlight the Retired Senior Volunteer Progam [RSVP]. This organization, which coordinates the volunteer efforts of more than 400,000 older Americans nationwide, is notably active in my home State of Kansas.

Each of the 15 local RSVP programs in Kansas designs its own volunteer activities. RSVP volunteers provide services as diverse as hospice counseling and sewing clothes for children of low-income families. In Finney County, just one of the many areas in Kansas served by RSVP, 300 volunteers have donated more than 55,000 hours of community service over the past year.

Woodrow Wilson once wrote that "there is no idea so uplifting as the idea of the service of humanity." Indeed, few endeavors are more worthy of praise than volunteer service. The tireless contributions of volunteers make the world a better place for all of us, and I salute them for it.●

THE CHICAGO ACADEMY FOR THE ARTS

● Mr. DIXON. Mr. President, I rise before you today to commemorate a very special event, a benefit for the J. Daniel O'Connor Academy Alumni Foundation, to be held at the Blackstone Theatre in Chicago, August 18 and 19, 1989. This permanent scholarship will fund students at the Chicago Academy for the Arts, a unique high school for young people exceptionally talented and gifted in the performing and visual arts.

Danny O'Connor, the foundation's namesake, was murdered on March 4, 1989, the victim of an apparent street crime that turned violent. Danny, an alumnus of the Chicago Academy for the Arts and a talented and aspiring actor, had been giving 1,000 percent of his time, energy and soul to the planning of this benefit at the time his life was so tragically ended. Danny, who was passionate about life, wanted so desperately to give something back to the school that had nurtured his talent. Indeed, Danny intended the benefit to be an event where the alumni of the academy would be able to recapture the magic of their blossoming time together as students.

A prebenefit for the J. Daniel O'Connor Academy Alumni Foundation is being held this Sunday, April 23, 1989, on Division Street, Chicago, where Danny worked as a bartender. Butch McGuire's, P.S. Chicago, She-Nanigan's and Mother's will donate proceeds collected between 8 p.m. and midnight to the foundation on behalf of Danny. Division Street was another placed where Danny touched the hearts of so many.

The Chicago Academy for the Arts is one of only a half-dozen high schools in the United States that specialize in the education of young artists. Founded 8 years ago, the academy is an independent, day high school that combines a college preparatory academic program with preprofessional training in visual art, dance, music and theater. Its alumni have made numerous contributions to their fields nationwide.

The academy's curriculum is rigorous and its students are talented and driven. The staff is composed of dedicated professional artists, who, having immersed themselves in their fields, enthusiastically nurture their students' talents. The arts are the lifeblood of the academy. Education is personal and the atmosphere is family-like. The student body is diverse and many walks of life are represented.

Fundraising at the Chicago Academy for the Arts is constant and sometimes disheartening. Tuition stands at $5,500 per year, placing it out of the reach of many families. The academy's facilities are functional, though makeshift, and it has outgrown them; a search for a larger facility is currently taking place.

The previously dormant parish school at old St. Patrick's Church, which has been home to the academy, will be reopened as an elementary school in the near future by the pastor there, Father Jack Wall. The success of the academy housed at old St. Patrick's School, just steps from Sears Tower, has helped to phenomenally transform a former warehouse district with no families or residences into a thriving parish and neighborhood; this transformation has no parallel in the United States.

Needless to say, then, fundraising for the Chicago Academy for the Arts remains a high priority. Future generations of artists are passing through the academy, and the academy needs everyone's help in order to survive and thrive. Many dedicated Chicagoans are committed to the academy and the contribution it continues to make to all; art enriches our lives at every level. So, let us hope that Danny O'Connor's dreams and contributions live on through the Chicago Academy for the Arts and its alumni!●

SUPREME COURT RULES ON SECRECY PLEDGE

● Mr. PRYOR. Mr. President, this morning the Supreme Court reaffirmed Congress' constitutional right to legislate in the area of national security matters, including the control of national security information.

In their ruling, the Court struck down a U.S. district court ruling that granted broad power to the White House on national security policy in a case regarding the use of a controversial secrecy pledge for Federal employees.

In 1987, Congress passed legislation to ban for 1 year the use of a secrecy agreement that had been forced on roughly 1.7 million Federal employees. The secrecy pledge was vague and far reaching and it was feared that the pledge would be used to silence whistleblowers who would otherwise report fraud and abuse in Government to their Representatives in Congress.

Several of us in Congress and the American Foreign Service Association filed suit in Federal district court in 1988 after it became apparent that the CIA, the State Department, and certain military services were continuing to use the secrecy form in violation of the congressional ban.

We were deeply concerned by the district court's very broad decision in the case in favor of the executive branch's action.

The opinion follows:

[Supreme Court of the United States, No. 87-2127]

AMERICAN FOREIGN SERVICE ASSOCIATION, ET AL., APPELLANTS *versus* STEVEN GARFINKEL, DIRECTOR, INFORMATION SECURITY OVERSIGHT OFFICE, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

[April 18, 1989]

PER CURIAM.

As a condition of obtaining access to classified information, employees in the Executive Branch are required to sign "nondisclosure agreements" that detail the employees' obligation of confidentiality and provide for penalties in the event of unauthorized disclosure. Two such nondisclosure forms are at issue in this case. One, Standard Form 189, was devised by the Director of the Information Security Oversight Office (ISOO) (now appellee Garfinkel); the other, Form 4193, was created by the Director of Central Intelligence (DCI) (now appellee Webster). Both of these forms forbade employees to reveal classified *or* "classifiable" information to persons not authorized to receive such information, App. 15, 19, and made clear that employees who disclosed information in violation of these agreements could lose their security clearances, their jobs, or both. *Id.*, at 16, 21. Neither form defined the term "classifiable." The Director of ISOO eventually promulgated a regulation that defined the term "classifiable" in Form 189 to include only unmarked classified information or unclassified information that was "in the process of a classification determination." Under this regulation, moreover, an employee would violate the nondisclosure

agreement by disclosing unclassified information only if that employee "knows, or reasonably should know, that such information is in the process of a classification determination and requires interim protection." 52 Fed. Reg. 48367 (1987). For those employees who signed Form 4193, however, the DCI did not attempt to define "classifiable." More than half of the Federal Government's civilian and military employees have signed either Form 189 or 4193. Brief for Appellants 5.

Section 630 of the Continuing Resolution for Fiscal Year 1988, Pub. L. 100-202, 101 Stat. 1329-432 enacted by Congress in 1987, prohibited the expenditure of funds in fiscal year 1988 for the implementation or enforcement of Form 189, Form 4193, or any other form that violated one of its five subsections.* In response to this statute, appellee Garfinkel ordered agencies to cease using Form 189, but several agencies nevertheless required approximately 43,000 employees to sign the form after § 630 was enacted. Brief for Appellants 10. The DCI, in contrast, continued to require employees to sign Form 4193, but attached a paragraph to the form stating that the nondisclosure agreement would "be implemented and enforced in a manner consistent with" the statute of which § 630 was a part. App. 26-27. Three months after § 630 became law, the DCI replaced Form 4193 with Form 4355, which eliminated the term "classifiable," *Federal Employees* v. *United States*, 688 F. Supp. 671, 680, n. 11 (DC 1988).

Appellant American Foreign Service Association (AFSA) and several Members of Congress brought the present lawsuit challenging appellees' use of Forms 189 and 4193 on the ground that they violated § 630. They sought declaratory and injunctive relief that would (1) bar appellees from requiring employees to execute or sign Form 4193 during fiscal year 1988; (2) compel appellees to treat any Form 4193 agreement signed after December 22, 1987 (the effective date of § 630), as void; and (8) direct appellees to notify all employees who signed Form 189 or 4193 after December 22, 1987, that these agreements were void and that the terms of such forms signed before that date could not be enforced in fiscal year 1988. App. 10. This lawsuit was consolidated with two other cases, brought by the National Federation of Federal Employees and the American Federation of Government Employees, which sought to enjoin the use of Forms 189 and 4193 because, among other things, they violated § 630 and because the term "classifiable" was so vague and overbroad that it inhibited employees speech in violation of the First Amendment.

The District Court for the District of Columbia concluded that appellant AFSA had standing to challenge the nondisclosure forms on behalf of its members, but that the Members of Congress lacked standing to challenge the use of the forms, 688 F. Supp., at 678-682. The court then assumed that "the Executive's actions since enactment of section 630 do not comply with the requirements of that legislation,," 688 F. Supp., at 683, and n. 16, because the DCI had continued to require employees to sign Form 4193 for three months after enactment of § 630 despite § 630's specific prohibition on the use of that form. Acknowledging that, during that time, the DCI had added a paragraph to Form 4193 stating that the agreement would be enforced in a manner consistent with § 630, the District Court nevertheless concluded that this action was not "true to the congressional mandate from which it derives authority,'" 688 F. Supp., at 683-684, n. 16, quoting *Farmers Union Central Exchange, Inc.* v. *FERC*, 236 U.S. App. D.C. 203, 217, 734 F. 2d 1486, 1500 (1984), and that review of the Executive's action under the Administrative Procedure Act, 5 U.S.C. § 706, "likely" would show that the Executive's action was contrary to law, 688 F. Supp., at 684, n. 16. Having thus skirted the statutory question whether the Executive Branch's implementation of Forms 189 and 4193 violated § 630, the court proceeded to address appellees' argument that the lawsuit should be dismissed because § 630 was an unconstitutional interference with the President's authority to protect the national security. Concluding the § 630 "impermissibly restricts the President's power to fulfill obligations imposed upon him by his express constitutional powers and the role of the Executive in foreign relations," 688 F. Supp., at 685, the court entered summary judgment in favors of appellees.

Appellants took a direct appeal from the District Court's judgment pursuant to 28 U.S.C. § 1252, and we noted probable jurisdiction, 488 U.S.——(1988). In spite of the importance of the constitutional question whether § 630 impermissibly intrudes upon the Exeuctive's authority to regulate the disclosure of national security information—indeed, partly because of it—we remand this case to the District Court without expressing an opinion on that issue.

Events occurring since the District Court issued its ruling place this case in a light far different from the one in which that court considered it. Since issuing the decision that we now review, the District Court has ruled on the constitutional challenge presented by the cases with which the present one was consolidated, and has decided that the unadorned term "classifiable" used in Forms 189 and 4193 is unconstitutionally vague. See *Federal Employees* v. *United States*, 695 F. Supp. 1196, 1201-1203 (DC 1988). The court further held that ISOO's definition of the term "classifiable," see *supra*, at 1-2, would remedy this vagueness, and ordered appellees to notify employees either that this definition was in force or that no penalties would be imposed for the disclosure of "classifiable" information. 695 F. Supp., at 1203-1204. Appellees thereafter deleted the word "classifiable"—a primary focus of appellants' challenge to Forms 189 and 4193—from all nondisclosure forms, and replaced it with the definition given in ISOO's regulation. They also furnished individualized notice of this change to employees who signed either Form 189 or Form 4193. 53 Fed. Reg. 38278 (1988); Motion to Affirm 13. According to appellants, however, appellees have notified only current employees of the refinement of the term "classifiable"; former employees, who signed Form 189 or 4193 but have left the employment of the Federal Government, have not received such notice. Brief for Appellants 15. The controversy as it exists today is, in short, quite different from the one that the District Court considered.

Indeed, appellees urge us to hold the case moot to the extent that it challenges the use of the term "classifiable" in Forms 189 and 4193. Brief for Appellees 31-32. As to current employees who have been notified that the term "classifiable" no longer controls their disclosure of information, the controversy is indeed moot. Appellants emphasize, however, that former employees have not been informed of the switch in terminology; as to them, the controversy whether they should have received notice of this change remains alive. Brief for Appellants 20. We decline to decide the merits of appellants' request for individualized notice to these employees, however, because the questions whether individual notice is required by § 630 and whether appellants' complaint can be read to request such notice for *former* employees, see Brief for Appellees 32, n. 24 (arguing that it cannot be so read), are questions best addressed in the first instance by the District Court.

A second reason why we remand this case for further proceedings rather than ordering it dismissed is that appellants argue that the definition of "classified information" now supplied by ISSO, 53 Fed. Reg. 38279 (1988) (to be codified in 32 CFR § 2003.20(h)(3)), does not comply with § 630. They contend that ISOO's definition prohibits disclosure of information that an employee reasonably should have known was classified, whereas subsection (2) of § 630 refers only to information that is "known by the employee" to be classified or in the process of being classified. Brief for Appellants 19-20. In contrast, appellees and the Senate as *amici* argue that there is no inconsistency between § 630(2) and this new definition. Brief for Appellees 39-41; Brief for United States Senate as *Amicus Curiae* 17-18. It appears that, in order to press this issue, the appellants would be forced to amend their complaint in order to take into account the new definition of the term "classified." Brief for Appellees 41. Because the decision whether to allow this amendment is one for the District Court, and because appellants' argument raises a question of statutory interpretation not touched upon by the District Court, we leave these matters for that court to decide in the first instance.

In addition, there remains a question whether the forms comply with subsections (3), (4), and (5) of § 630, dealing with disclosure of classified information to Congress. Both appellants and appellees apparently agree that these subsections simply preserve preexisting rights, rights guaranteed by other statutes and constitutional provisions. Brief for Appellants 38-40; Brief for Appel-

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*Section 630 provides:

"No funds appropriated in this or any other Act for fiscal year 1988 may be used to implement or enforce the agreements in Standard Forms 189 and 4193 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement:

"(1) concerns information other than that specifically marked as classified; or, unmarked but known by the employee to be classified; or, unclassified but known by the employee to be in the process of a classification determination;

"(2) contains the term 'classifiable';

"(3) directly or indirectly obstructs, by requirement of prior written authorization, limitations of authorized disclosures, or otherwise, the right of any individual to petition or communicate with Members of Congress in a secure manner as provided by the rules and procedures of the Congress;

"(4) interferes with the right of the Congress to obtain executive branch information in a secure manner as provided by the rules and procedures of the Congress;

"(5) imposes any obligations or invokes any remedies inconsistent with statutory law: *"Provided*, That nothing in this section shall affect the enforcement of those aspects of such nondisclosures policy, form or agreement that do not fall within subsections (1)-(6) of this section."

Section 630 applied only to fiscal year 1988; however, § 619 of the Treasury, Postal Service and General Government Appropriations Act, 1989, Pub. L. 100-440, 102 Stat. 1756, includes restrictions on expenditures of funds during fiscal year 1989 that are identical to those contained in § 630.

lees 48. The only relief appellants request with respect to this portion of the case is notice to employees informing them that Forms 189 and 4193 did not alter those preexisting rights. Brief for Appellants 38. No actual instance in which an employee sought to disclose information to Congress, and was prohibited from doing so, has been brought to our attention. There thus exists a substantial possibility that this last portion of the case is not ripe for decision, and this is exactly the argument pressed by several *amici*. Brief for American Civil Liberties Union as *Amicus Curiae* 28-48; Brief for Speaker and Leadership Group of House of Representatives as *Amicus Curiae* 12-16; Brief for United States Senate as *Amicus Curiae* 15-21. We are not, however, disposed to decide for ourselves whether this is so. Since the District Court analyzed the interaction between § 630 and the Executive Branch's nondisclosure policy to help us decide whether the case is ready for decision or, if it is, to guide our own resolution of the merits. Again, therefore, we return these questions to the District Court to allow it to sort them out in the first instance.

Because part of the controversy has become moot but other parts of it may retain vitality, we vacate the judgment below and remand for further proceedings consistent with this opinion. *See, e.g., United States Dept. of Treasury* v. *Galioto*, 477 U.S. 556, 560 (1986); *United States* v. *Munsingwear, Inc.*, 340 U.S. 36, 39-40 (1950). In doing so, we emphasize that the District Court should not pronounce upon the relative constitutional authority of Congress and the Executive Branch unless it finds it imperative to do so. Particularly where, as here, a case implicates the fundamental relationship between the Branches, courts should be extremely careful not to issue unnecessary constitutional rulings. On remand, the District Court should decide first whether the controversy is sufficiently live and concrete to be adjudicated and whether it is an appropriate case for equitable relief, and then decide whether the statute and forms are susceptible of a reconciling interpretation; if they are not, the court may turn to the constitutional question whether § 630 impermissibly intrudes upon the Executive Branch's authority over national security information. See, *e.g., Ashwander* v. *TVA*, 297 U.S. 288, 345-456 (1936) (Brandeis, J. concurring) *Rescue Army* v. *Municipal Court of Los Angeles*, 331 U.S. 549 (1947); *Clark* v. *Jeter*, 486 U.S. ——, —— (1988) (slip op., at 3).

The judgment of the District Court for the District of Columbia is vacated, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.●

HONORING CARL AND THELMA POSTON

● Mr. LEVIN. Mr. President, I would like to take a minute to recognize Mr. and Mrs. Carl C. Poston, Jr., who were recently honored as living legends during Saginaw County's Black History Month.

Carl Poston, Jr., moved to Saginaw County in 1955. In no time at all, he was involved in public life. He was appointed to the Saginaw City Council, and was later elected to that office. He served as Saginaw City mayor pro tem. He headed numerous community development projects including Project Open Community, and the Saginaw County Youth Protection Council.

Mr. President, Carl and Thelma Poston are community builders. Their fight for equal rights has made Saginaw County better for us all. Monuments to their work can be seen throughout the area. In housing. In economic development projects. In a more equitable society.

It is hard to imagine what Saginaw would be like without the Postons. Fortunately, we don't have to. Their leadership has earned them the name: Saginaw's living legends.

I salute them and their four sons for their award. We can never honor Carl and Thelma Poston as much as they have honored us.●

PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE CONGRESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 97 to provide for adjournment of the House and Senate.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 97) providing for a conditional adjournment of the House from Tuesday, April 18, 1989, until Tuesday, April 25, 1989, and a conditional recess or adjournment of the Senate from Wednesday, April 19, or Thursday, April 20, or Friday, April 21, or Saturday, April 22, 1989, until Monday, May 1, 1989.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 97) was considered and agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE HEALTH OF THE NATION'S CHILDREN

Mr. MITCHELL. Mr. President, I am pleased today to introduce with my distinguished colleague, Senator DOLE, and Mr. BOND, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. D'AMATO, Mr. DURENBERGER, Mr. GORTON, Mr. JEFFORDS, Mr. LUGAR, Mr. MCCAIN, Mr. WILSON, Mr. MURKOWSKI, Mr. MCCONNELL, Mr. WARNER, Mr. PACKWOOD, Mr. GRASSLEY, Mr. HATCH, Mr. BUMPERS, Mr. CONRAD, Mr. DECONCINI, Mr. EXON, Mr. FORD, Mr. GORE, Mr. HARKIN, Mr. HOLLINGS, Mr. KOHL, Mr. MATSUNAGA, Mr. NUNN, Mr. PELL, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SHELBY, and Mr. SIMON, a joint resolution aimed at enhancing the health and well-being of America's children. I send the joint resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 104) to express the sense of Congress with respect to the health of the Nation's children.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. MITCHELL. Mr. President, each day over 10,000 babies are born in the United States. Unfortunately, each of these children does not have a similar chance at having their basic health and safety needs met. Rather, it is a sad reality that many of these children will not reach adulthood, or even adolescence. The probabilities are that over 100 of the babies born today will die before their first birthday. This sad statistic ranks our great Nation behind 18 other industrialized countries in infant mortality rates.

Furthermore, 700 of every 10,000 babies born will remain hospitalized for low birthweight and other health problems because their mothers either lacked proper prenatal care, were under age 15, or were substance abusers.

Too many children and adolescents suffer death or injury from preventable causes. Each day in the United States, five teenagers commit suicide; seven children or adolescents are homicide victims; three children die from gunshot wounds, and thousands are the victims of child abuse. The list of unfortunate statistics goes on and on; and the upward trends are alarming.

As legislators, we can help reduce these numbers. It will take a long-term commitment—after all, the underlying social problems were years in the making—but it is clear that more can be done to protect our children. And most Americans want us to do more. A recent Harris poll indicated that more than 74 percent believe that the problems of children have increased, and 63 percent believed that we do too little to address these disturbing issues. Another poll revealed that by a 3-to-1 margin, respondents were willing to pay higher taxes to provide health-related programs for children.

It is time to make a greater commitment. We have surveyed the problems, heard testimony to the issues, and too often have seen, first hand, the need. We know that 1 in 4 children under age 6 lives in poverty. We know that 13 million children under age 18 are uninsured. We know that we have the

highest teen pregnancy rate among developed nations. We have heard these numbers and many other disheartening facts.

Now I would like to see us concentrate on the solutions. Last year we were able to increase Medicaid coverage for women and children up to 100 percent of the poverty line, but this was just a modest step forward.

I hope that this resolution, "Health of America's Children" can help us gather our collective wisdom to serve 64 million constituents without their own political voice. I hope that as we go about our legislative business, we can keep programs to benefit children at a high prominence; that we can be more creative in designing programs to protect our young; and that we can accomplish, this session, legislation that will move us forward toward the goal of removing barriers to quality health care for every child and pregnant woman.

Mr. DOLE. Mr. President, I can think of no better commitment to America's future than ensuring a better future for our children. Our very survival depends upon their well-being—their education, their health, and their hopes for a fair shot at the American dream.

Unfortunately too many of America's young now face a future that seems to be filled with doubts, uncertainties and, yes, fear. I am talking about the millions of children threatened by teenage pregnancy, suicide, violence, inadequate health care, and the scourge of drugs.

Statistics tells us that each day in America, 121 children are born to women under the age of 15; that five teenagers commit suicide; that three children die from unintentional gunshots, and who knows how many from intentional ones; and that 1 in 4 children under 6 lives in poverty.

Mr. President, these are chilling numbers. Clearly, the time for action is now as our women and children confront these terrible challenges on a 24-hour-a-day basis—and that every day we do not deal with these issues, we are another 24 hours' worth of disturbing statistics behind the curve.

Our children deserve more education, better health care, more job opportunities, better nutrition, and much, much more.

That's why I am pleased today to help introduce along with the distinguished majority leader Senate Joint Resolution 104. A measure that says loud and clear that America's children are a top priority on Capitol Hill.

All of us can make a difference. That is why we are here. I ask my colleagues to join in the battle to make the world a better place for our children. If we do, the future will look better for all of us.

The joint resolution (S.J. Res. 104), with its preamble, was considered, ordered to a third reading, read the third time, and passed.

The joint resolution, with its preamble, is as follows:

S.J. RES. 104

Whereas, children are our most precious resource;

Whereas, the future of this great country depends on their healthy development, in a safe environment, with a sound education which meets their individual needs and allows them to achieve their maximum potential;

Whereas, our national commitment to this Nation's children and pregnant women is not commensurate with our resources or our knowledge;

Whereas, we recognize that the health needs of our children are changing, with health problems intertwined with behavioral and psychological disturbances often related to social and economic conditions;

Whereas, there are alarming trends in preventable diseases and deaths among our children, as evidenced by the increase in childhood diseases, injuries, and substance abuse;

Whereas, despite our technological advances in the treatment of newborns, the United States ranks 18th among industrialized nations in infant mortality and our position has not improved since 1980;

Whereas, we know that low birth weight is the major contributor to infant deaths, 34 percent of all pregnant women receive insufficient or no prenatal care, with infants born to teens significantly more likely to be born at low birth weight;

Whereas, children ages 21 and under represent only 33 percent of the total United States population, they constitute nearly half of the uninsured, with gaps particularly profound for children 0–2 and adolescents 18–21;

Whereas, the majority of children who are uninsured have parents that work full or part time, only 12 percent of all uninsured children live in nonworking families;

Whereas, Congress has sought to improve and expand Medicaid, fewer than half of poor children are currently receiving Medicaid coverage, and even those who are, encounter significant barriers of limited benefits and frequent periods of discontinuity;

Whereas, a wide variety of children's programs are administered at many different levels of Federal and State bureaucracies, they have resulted in fragmentation and duplication of services, especially for chronically ill children: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That we declare that access to quality health care is a goal for every child and pregnant women; and be it further

Resolved, That it is a shared responsibility of both the public and private sectors at the Federal, State, and local levels, and that we collectively commit ourselves to take the necessary steps to remove existing barriers toward that end.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Idaho.

TRIBUTE TO GLEN LOCKERY

Mr. McCLURE. Mr. President, in May a very special occasion will take place at the University of Idaho, my alma mater, that I would like to share with my colleagues in the Senate.

This year marks the centennial of the University of Idaho and as a part of the planned festivities, the University of Idaho choir, the Vandaleers, is having a reunion. I sang in the Vandaleer choir for 4 years while I was in college and law school. My years singing in the choir hold many particularly fond memories for me, not the least of which is that is where I met my wife, Louise, who was a voice major.

The Vandaleers have always been known as a first rate choir and have traveled extensively. At the May reunion, past and present members of the choir will be honoring the man who is, more than any other person, responsible for building the choir's reputation—Mr. Glen Lockery.

Glen came to the university to direct the Vandaleers in 1947. He, like so many of us, was out of the service and came to the university after singing with the very first Robert Shaw Chorale.

Right from the very beginning, Glen commanded a loyalty and a friendship among his students that I have not seen before or since. Forty years later, many of Louise's and my closest friends are people we met in the choir.

I know that Louise would join me in saying that Glen Lockery brought quality music and quality instruction to the Vandaleer Choir. He taught us to love music and to appreciate the very best—in both the classics and in modern compositions. Glen demanded the best in his students. Not only was it technical perfection but we performed difficult works ranging from Brahms, Handel and Bach to Paul Hindemith's "Old Joe Has Gone Fishing." Included with the classics was always a smattering of Broadway tunes.

He brought, too, the extra dimension so essential to good music—emotion. To be truly memorable, music must excite the emotions! Whether it was the light-hearted humor of "The Blue Tick Fly" or the deeper mood of the Bach chorales Glen Lockery gave of himself and responded to the music. He asked us to do the same, and as we became emotionally involved in the music, something magical happened. We were transformed into something better than we had been. We knew it and the audiences felt it and responded. It is that magic imparted to us by a warm and gifted man that made the experience of singing for him and with him the experience of a lifetime for those of us lucky enough to be associated with him. Glen Lockery had a real, lifelong affect on his students. Probably most of the Vandaleers

Louise and I knew, no longer perform. But I can guarantee that we are better listeners and have a deeper appreciation of music and support of all the arts because of this man. He taught us to participate and to be productive members of a group working together toward a single goal. Because he touched so many lives during his years at the University of Idaho, Glen truly made Idaho a better place to live.

Mr. President, Louise and I are looking forward to joining the Vandaleers in May to pay tribute to Glen Lockery. We will be able to tell him in person how much he means to us and how he helped shape our lives. It has been my privilege today to speak on the floor of the U.S. Senate about the extraordinary accomplishments of an excellent teacher, an inspiring musician, and our good friend.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 98-29 as amended by Public Law 98-459, appoints Mrs. Mary J. Majors, of Iowa, to the Federal Council on the Aging, vice Dr. Russell Mills, and effective March 22, 1989.

APPOINTMENT BY THE PRESIDENT OF THE SENATE

The PRESIDING OFFICER. The Chair, on behalf of the President of the Senate, pursuant to Public Law 85-874, appoints the Senator from Maine [Mr. MITCHELL] to the Board of Trustees of the John F. Kennedy Center for the Performing Arts, vice the Senator from Oregon [Mr. HATFIELD].

RESOLUTION PLACED ON THE CALENDAR—SENATE RESOLUTION 108

Mr. MITCHELL. Mr. President, I send a resolution to the desk on behalf of Senators BOSCHWITZ, PELL, DOLE, and myself, and ask unanimous consent that the resolution be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I spoke at length yesterday on the Senate floor regarding the current tragedy in Lebanon. I explained that I had written to President Bush and Secretary of State Baker to encourage them to increase their efforts to end the violence and division in Lebanon.

To emphasize the urgency of the situation, I am today submitting, along with my distinguished colleagues Senator BOSCHWITZ, Senator PELL, and Senator DOLE, a resolution expressing the sense of the Senate regarding Lebanon. This resolution conveys the concerns that we and many other Americans have about the future of Lebanon.

The resolution commends the administration for calling for an immediate cease-fire in Lebanon and urges the President to renew his efforts and his support for international efforts to halt the fighting. The resolution condemns those parties that have failed to accept this call.

It is my hope that the entire international community will join the United States, France, the League of Arab States, and others in pressing Syria and all Lebanese factions to halt the horrendous shelling and slaughter of civilians.

The resolution also calls for the withdrawal of all foreign forces, including Syrian forces, as well as the abolition of all militias within Lebanon. Only in this way can a central authority be restored and the Nation's unity be ensured.

Finally, the resolution calls upon the Lebanese parties to commit themselves to a process of internal reconciliation and expresses support for international efforts to achieve this goal.

As the ultimate responsibility for Lebanon's future lies with the Lebanese themselves, they must begin the difficult but crucial task of political reform and compromise. If the state is to survive, Lebanon's people must fulfill the mandate to elect a President. They must agree upon a formula for governing and choose one government to guide Lebanon. They must demonstrate their willingness to take control of their destiny and rebuild the nation they once knew.

In their efforts, they will have the strong support of the United States. America remains, as always, committed to a free, independent and unified Lebanon.

This resolution offers the Senate an opportunity to express its concerns regarding Lebanon and to encourage the President to reinvigorate his efforts to end the mindless violence now tearing Lebanon apart.

I encourage my colleagues to join us in supporting this important Sense of the Senate resolution regarding the tragedy in Lebanon.

Mr. DOLE. Mr. President, I am pleased to join the distinguished majority leader in submitting this resolution, though I am deeply saddened that this kind of resolution is needed.

Sometimes we use certain words with such frequency that they lose their impact. Tragedy may be one such word. But certainly there is no place on Earth where the word tragedy may be more aptly applied than in Lebanon.

As the resolution notes, the on-going tragedy of Lebanon has been exacerbated in recent weeks by a dramatic upsurge in violence. More than a thousand have been killed or wounded. Tens of thousands of artillery shells have fallen on Beirut. What is left of the national sovereignty of Lebanon is under massive, new assault by Syrian military forces.

None of us are under any illusion that this resolution is going to end the long-term turmoil, or even the short-term violence, in Lebanon. But we cannot remain silent in the face of what is happening to this once great nation, and once peaceful people.

We cannot remain silent because of the enormous stake we have in the Middle East; and because so many of the problems and threats we face are related to the situation in Lebanon.

We cannot remain silent because of the immense human suffering of a people with so many family and other ties to this country.

We cannot remain silent because what is happening is just wrong, and terrible.

I commend the majority leader for taking the lead on this issue. And I urge immediate and unanimous adoption of this resolution.

Mr. BOSCHWITZ. Mr. President, the world has now witnessed the continuing agony of Lebanon for 14 years. The events in that strife-torn country defy reason. One's inclination is to throw up his hands in despair and walk away from what seems a hopeless situation. Yet, this easy solution is not in the American interest nor in the interest of millions of good, decent Lebanese who struggle daily to survive and to preserve basic human values.

The United States has had the correct policy:

The withdrawal of all foreign forces, involving the Syrians;

The preservation of Lebanese territorial integrity and the reassertion of central government authority throughout Lebanon; and

Reform of the constitutional system so that the Lebanese government better represents all of the people of Lebanon.

Where our policy has failed in Lebanon is in the inconsistency of its implementation. In 1982, the large commitment of funds, military personnel and effort were not sustainable. Our adversary at that time—the Syrians—clearly understood this. Foreign Minister Khaddam bluntly told Secretary Shultz: "The United States is short of breath." He was correct. Our national interest in Lebanon could not justify a commitment of that magnitude. President Reagan wisely reduced our presence once it was determined that American interests were no longer being served.

As is too often the case, the pendulum has swung too far in the other direction. The United States interest does not permit us to ignore Lebanon altogether. International terrorism, drug trafficking, regional conflicts,

American hostages and empathy with the millions of Lebanese who share our values and daily confront our mutual foes are too important to be ignored. In the end, failure to address these problems will harm U.S. interests and reflects poorly on our Government and the American people.

What then is a sustainable position? First and foremost, the American Government must stand unequivocally for the values we cherish. The United States has a clearly stated policy and we must support that policy. Foreign forces, including the Syrians, must be withdrawn from Lebanon. Hostage taking, drug trafficking and international terrorism emanating from areas controlled by the Syrians must be condemned absolutely. Syria must be held publicly responsible for actions emanating from territories which it occupies. Anything less will only encourage Syria to continue its unacceptable policies.

Second, the United States must continue its modest but sustainable aid levels to institutions and people in Lebanon who support our values and are in need of our assistance.

My fear is that too often U.S. policy is distracted by the crisis of the moment. Instead of keeping our eyes on our long-term interests, an ad hoc solution to the immediate crisis becomes our overriding concern. We cannot adopt such an approach in Lebanon, or anywhere else in the world for that matter.

The current crisis is a case in point. In February, the Government of General Aoun confronted the Christian militia of the Lebanese forces and after considerable fighting forced them to relinguish control of the ports in the Christian enclave. Customs had been the single, largest source of revenue for the Lebanese Government. In recent years, however, various militias have controlled the ports, thus funding their own activities and depriving the government of revenues. In addition, some militia-controlled ports have been the center of drug trafficking, the profits of which fund international terrorism.

In a parallel move, the Government of General Aoun used the small Lebanese Navy to blockade the militia-controlled ports of Khalde and Jiye south of Beirut controlled by Syria and its Lebanese surrogates.

In response to General Aoun's closure of their illegal ports, Syria and its allies retaliated by imposing a blockade that has virtually cut off the Eastern Beirut enclave from the rest of the country. Syrian forces also responded by shelling the Christian area with some of the heaviest bombardment in the last fourteen years.

Hundreds of Lebanese civilians have been killed or wounded. Syrian artillery shells and rockets rain down steadily on civilian infrastructure facilities, including schools, hospitals, gas storage tanks, grain silos and water reservoirs. In an attempt to escape the maelstrom of Syrian shells, thousands of Lebanese are fleeing to south Lebanon; others risk Syrian shelling on the coast to flee by boat to Cyprus.

In an attempt to bring this latest round of carnage to an end, an Arab League Mediation Committee has called for a cease-fire: the Government of General Aoun accepted it; Syria has not. General Aoun has called for the withdrawal of all Syrian forces from Lebanon. Syria defiantly rejects this and reaffirms its resolve to remain in Lebanon.

General Aoun's goals is to get Syrian forces out of Lebanon. This goal is shared not only by Christians, but also by many Lebanese Moslems who desire to rid themselves of Syrian domination and intimidation. At this point, I would like to include in the RECORD two articles: One published in the Christian Science Monitor on April 6, 1989, and one from the Washington Post on April 12, 1989.

General Aoun has appealed to the United States to assume a helpful role by supporting the Arab League's call for a cease-fire. The United States should publicly reaffirm its call for an immediate halt in the fighting, support international efforts for a cease-fire, and the withdrawal of Syrian forces. If these efforts prove successful, steps could then be pursued which would bring the two governments in Lebanon together to begin the process of reform and national reconciliation, free from outside interference. So long as 40,000 Syrian troops remain in Lebanon, in a continuing attempt at Syrian domination of the Lebanese people, these goals will remain elusive. Years of strife in Lebanon have shown that no one group can impose its will on another. The Lebanese people—Christian and Moslem—deserve the right to live in peace, and to determine their own future and appear prepared to start on the difficult path to reconciliation.

Furthermore, returning the ports to militia control will only foster further divisions in Lebanon and fund international terrorists and drug traffickers. The precedent will be set that every time the Syrians oppose an action in Lebanon, all that has to be done is shell Beirut and that action will be reversed.

The State of Israel is criticized for the manner in which it reacts to violent demonstrations on the West Bank and in Gaza. In comparison United States reaction to the Syrian bombardment of East Beirut is very mild. The Israeli presence on the West Bank and in Gaza is called occupation but the Syrian presence in Lebanon is not. Libyan support for international terrorism results in the United States bombing of Libya but Syrian support for equally egregious actions is barely criticized. With regard to Syria, this is not a case of a double standard, but one of no standard at all.

Mr. President, the United States has interests in Lebanon, in an end to the conflict there, and in helping Lebanon to restore its territorial integrity and sovereignty. We must not let past policy failures inhibit our ability to act in our own interests. Nevertheless, we must be cautious not to over commit ourselves as we have done in the past. With our limited resources, consistency of actions and rational resolve are much more important.

Today I am joining in submitting this resolution on the current crisis in Lebanon. This resolution is a clear statement of the current situation in Lebanon. It clearly supports the stated long-term objectives of the United States. I urge my colleagues to cosponsor this resolution and support American interests and the people of Lebanon.

I ask unanimous consent that an article from the Christian Science Monitor dated April 6, 1989, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Apr. 6, 1989]

LEBANESE GENERAL TAKES ON SYRIA

(By Jim Muir)

BEIRUT.—"I am not a Christian leader who is going against the Syrians," says Gen. Michel Aoun. "I am the Lebanese prime minister, who is defending his rights on his own territory."

Speaking during an interview in the much-bombarded presidential palace at Baabda, east of Beirut, he continues: "The Syrians have no rights in Lebanon. They are an occupying army, and the world has to support us."

His Syrian adversaries dismiss General Aoun as "the little General." Some Lebanese, with a mixture of awe and anxiety, call him "Napole-Aoun."

The fighting that erupted March 14 between Aoun's regular Army troops and Muslim militia forces backed by Syrian troops is among the worst since Lebanon's civil war began in 1975. At least 123 people have been killed and 473 wounded in artillery duels that have ravaged Beirut during the past few weeks.

The latest strife was sparked by a naval blockade imposed by Aoun on illegal ports operated by Muslim militias, following his earlier takoever of a Christian militia-run berth in Beirut's harbor. The Muslim forces want the blockade lifted, but Aoun insists that a Syrian withdrawal from Lebanon must take precedence over all other issues.

Many sources say that the general's challenge to Syria had struck a responsive chord among ordinary people on the other side of the line.

"They like Aoun because he is standing up to the Syrians," one west Beirut source says. "They know he is not against the Muslims, and that he is a nationalist. Nobody likes the Syrians."

But some sources say that Aoun's bombardment of Syrian-controlled areas has largely undetermined his earlier support among the largely Muslim populations.

"He has alienated them completely," one Shiite says.

Through recent events, the general has emerged as the leading figure the Christian enclave of east Beirut and the mountain and coastal areas north and east of the capital. Yet Aoun deeply resents being called a "Christian leader."

The label is inevitably applied to him by the international press, because his authority as prime minister of a military government and commander of the Lebanese Army, is accepted only in the Christian enclave. In west Beirut and other mainly Muslim areas, the rival government, headed by Selim Hoss, a Sunni Muslim, is recognized.

Their vying governments emerged last September, when President Amin Gemayel left office and attempts to elect his successor failed. Since November, there has also been a rival Army command headed by a Sunni officer, Brig. Gen. Sami al-Khatib.

Mr. Gemayel appointed Aoun, then Army commander, as prime minister—a post traditionally held by a Sunni Muslim. Aoun insists that this makes him the only legal claimant to the job. But his background also gives him reason to reject claims that he represents only the Christians.

Alone among leaders in the Christian area in modern times, Aoun was raised in a mixed Muslim-Christian district. His family, of modest background, lost its home in the southern Beirut suburb of Haret Hreik in the early years of the civil war. The district is now dominated by Shiite Muslims and has been controlled militarily by Syria since last May.

Although his own Maronite Christian sect has traditionally dominated the Army, sectarianism has never had a place in Aoun's thinking. Even his most bitter political enemies cannot accuse him of favoring Christians during his progress through the ranks as a career artillery officer.

Now it is estimated that about 30 percent of his loyalist officers and men are Muslims, mainly Sunnis from rural areas. Lebanese and foreign sources say he also retains great respect and admiration even among the Muslim and Druze Army units which split off during the years of sectarian strain and which now operate in Syrian-controlled areas.

Aoun's nationalism was tested when Israeli troops advanced on the presidential palace during their 1982 invasion. Aoun, then a colonel, prepared to open fire. He had to be ordered by President Elias Sarkis to stand down.

"He was the only Christian officer who saw the Israelis as an invading enemy which should be confronted," a Christian source says. "Among his 500-600 loyalist officers, he is seen as some kind of god."

Three months later Aoun was in charge of Lebanese Army units in west Beirut. The Israelis had moved into the city in the wake of the withdrawal of Palestine Liberation Organization forces. The Israelis asked Aoun to send his men into the undefended Palestinian refugee camps of Sabra and Shatila. He refused. The Israelis turned instead to their Christian militia allies, the Lebanese Forces, who massacred hundreds of Palestinians.

COMMEMORATING THE 50TH ANNIVERSARY OF THE AIRBORNE UNITS OF THE UNITED STATES ARMED FORCES

Mr. MITCHELL. Mr. President, on behalf of Senators FORD, THURMOND and SANFORD I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 28, a concurrent resolution submitted earlier today.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 28) to commemorate the 50th anniversary of the Airborne Units of the United States Armed Forces.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution.

There being no objection, the concurrent resolution (S. Con. Res. 28) was considered and agreed to.

The preamble was agreed to.

The concurrent resolution with its preamble, reads as follows:

S. CON. RES. 28

Whereas, the United States Army did not have a parachute or glider troop until 1940;

Whereas, on April 25, 1940, the War Department directed the organization of a test platoon of 2 officers and 48 enlisted men to experiment with the airborne concept;

Whereas, on August 16, 1940, the test platoon carried out the first live parachute jump from a B-18 bomber aircraft;

Whereas, on September 16, 1940, the War Department authorized the development of the first parachute battalion;

Whereas, the first Parachute Battalion received the designation of the 501st Parachute Battalion and later moved to the Panama Canal to reinforce defenses;

Whereas, the Airborne Command was activated at Fort Benning, Georgia, following the declaration of war after the Pearl Harbor attack;

Whereas, at Fort Benning, the Airborne Command activated, trained and equipped for combat the parachute and glider units which participated valiantly in all of the major invasions of World War II;

Whereas, paratroops fought in the Korean War, protected our Vice President in Central America, and fought in Vietnam and Grenada;

Whereas, airborne troops participated in all wars since World War II, protected the citizens of this country during a period of unrest in the 1960's, and continue to be on alert status to defend the freedom of the citizens of this country; and

Whereas, the Airborne units of the United States Armed Forces, a distinct segment of the defense force, have the capability of being deployed anywhere in the world on short notice and are able to fight and win: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress congratulates the Airborne units of the United States Armed Forces for 50 years of faithful service to the United States.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROVIDING FOR CONGRESSIONAL PARTICIPATION IN BICENTENNIAL CEREMONIES IN NEW YORK CITY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 96 just received from the House of Representatives concerning the first meeting of the Congress in New York City.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 96) providing for participation by delegations of Members of both Houses of Congress in ceremonies to be held in April 1989 in New York City marking the 200th anniversaries of the implementation of the Constitution as the form of government of the United States, the convening of the 1st Congress, the inauguration of President George Washington and the proposal of the Bill of Rights as the first 10 amendments to the Constitution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 96) was considered and agreed to.

The preamble was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT OF SENATORS AS MEMBERS OF THE SENATE DELEGATION TO CEREMONIES IN NEW YORK CITY ON APRIL 29-30, 1989

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to House Concurrent Resolution 96, of April 18, 1989, appoints the following Senators as members of the Senate delegation to ceremonies in New York City on April 29-30, 1989, commemorating the 200th anniversary of George Washington's inauguration: The Senators from New York [Mr. MOYNIHAN and Mr. D'AMATO] and the Senator from New Jersey [Mr. LAUTENBERG].

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent the Senate go into executive session to consider the following nominations: Calendar Order No. 61, Richard Thomas McCormack to be U.S. Alternate Governor of several international banks, and Calendar Order No. 62, William P. Barr to be an Assistant Attorney General.

I further ask unanimous consent that the nominations be confirmed en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be tabled en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

INTERNATIONAL BANKS

Richard Thomas McCormack, of Pennsylvania, to be U.S. Alternate Governor of the International Bank for Reconstruction and Development for a term of 5 years; U.S. Alternate Governor of the Inter-American Development Bank for a term of 5 years; U.S. Alternate Governor of the African Development Bank for a term of 5 years; U.S. Alternate Governor of the African Development Fund; and U.S. Alternate Governor of the Asian Development Bank.

DEPARTMENT OF JUSTICE

William Pelham Barr, of Virginia, to be an Assistant Attorney General.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate stand in recess under the previous order until 8:30 a.m. on tomorrow, Wednesday, April 19, 1989.

There being no objection, the Senate, at 9:22 p.m., recessed until Wednesday, April 19, 1989, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 18, 1989:

DEPARTMENT OF STATE

WALTER J.P. CURLEY, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO FRANCE.

DEPARTMENT OF LABOR

DAVID GEORGE BALL, OF CONNECTICUT, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE DAVID M. WALKER, RESIGNED.

DEPARTMENT OF AGRICULTURE

RICHARD THOMAS CROWDER, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE DANIEL G. AMSTUTZ, RESIGNED.

JACK CALLIHAN PARNELL, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMODITY CREDIT CORPORATION, VICE PETER C. MYERS, RESIGNED.

IN THE COAST GUARD

THE FOLLOWING OFFICERS OF THE UNITED STATES COAST GUARD FOR APPOINTMENT TO THE GRADE OF REAR ADMIRAL:

PAUL A. WELLING
WALTER T. LELAND

IN THE FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE UNITED STATES INFORMATION AGENCY FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS STATED, AND FOR THE OTHER APPOINTMENTS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

JO ANN CLIFTON, OF OREGON
BETTY K. TASKA, OF NEW YORK

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF AGRICULTURE

DAVID W. CULVER, OF VIRGINIA
LLOYD J. FLECK, OF TENNESSEE

AGENCY FOR INTERNATIONAL DEVELOPMENT

DOUGLAS W. ARNOLD, OF CALIFORNIA
KENNETH WAYNE BEASLEY, OF INDIANA
TOBY L. JARMAN, OF VIRGINIA
JEFFREY MALICK, OF CALIFORNIA
HOWARD R. SHARLACH, OF NEW YORK

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF AGRICULTURE

GARY C. GROVES, OF VIRGINIA
CRAIG A. THORN, OF VIRGINIA

AGENCY FOR INTERNATIONAL DEVELOPMENT

IQBAL MOHAMMAD CHAUDHRY, OF NEW JERSEY
CALVIN LINDSAY ELMENDORF, OF VIRGINIA
LARRY E. HIRSCHLER, OF CALIFORNIA
HARRY JOHN MCPHERSON, OF CALIFORNIA

U.S. INFORMATION AGENCY

EVELYN ALEENE EARLY, OF TEXAS

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

CAROL A. HAMMOND, OF NEW YORK
KATHERINE J.M. MILLARD, OF THE DISTRICT OF COLUMBIA
MARCIA L. NORMAN, OF NEW JERSEY
ROSEMARY D. O'NEILL, OF MASSACHUSETTS
SUSAN MARIE SELBIN, OF ALASKA

DEPARTMENT OF AGRICULTURE

ELIZABETH B. BERRY, OF VIRGINIA
MARCUS E. LOWER, OF OHIO
DAVID G. SALMON, OF MISSOURI
KENT D. SISSON, OF VIRGINIA
WILLIAM W. WESTMAN, OF FLORIDA

AGENCY FOR INTERNATIONAL DEVELOPMENT

JAMES F. BEDNAR, OF NEW HAMPSHIRE
JAN PAUL EMMERT, OF OHIO
KAY JACKSON FREEMAN, OF CALIFORNIA
RICHARD PAUL HARBER, JR., OF MISSOURI
JAROSLAW JOSEPH KRYSCHTAL, OF LOUISIANA
KENNETH A. LANZA, OF FLORIDA
JOSEPH FREDERICK LOMBARDO, JR., OF NEW YORK
MARC PAUL MADLAND, OF TEXAS
JOHN JOSEPH MITCHELL, OF NEW YORK
RICHARD STEELMAN, OF TEXAS
CRAIG M. STEFFENSEN, OF VIRGINIA
ROBERT JAMES WILSON, OF CONNECTICUT
ORION YEANDEL, OF NEW YORK

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

GINA KAY ABERCROMBIE-WINSTANLEY, OF OHIO
ANDREW ASKLAND, MARYLAND
GEORGE WALBRIDGE PERKINS ATKINS, III, OF GEORGIA
GRACE HSIAO-LIN BAY, OF NEW MEXICO
MARK J. BEZNER, OF NEVADA
JAMES ROBERT BIGUS, OF CALIFORNIA
ANNE CHRISTY BODINE, OF OREGON
DENISE ANNE BOLAND, OF NEW JERSEY
LINDA MURL COWHER, OF PENNSYLVANIA
RAYMOND STANLEY DALLAND, JR., OF VIRGINIA
CHRISTOPHER RICHARD DAVIS, OF MARYLAND
RICHARD JAMES DOUGLAS, OF FLORIDA
MARY DRAPER, OF CALIFORNIA
DEBORAH W. GLASSMAN, OF VIRGINIA
WILLIAM GARY GRAY, OF OHIO
ALAN ERIC GREENFIELD, OF MAINE
JULIE J. HAGARTY, OF PENNSYLVANIA
KETHRYN ALDEN HARRISON, OF TEXAS
KATHLEEN MARIAN HEFFRON, OF THE VIRGIN ISLANDS
NICHOLAS MANNING HILL, OF RHODE ISLAND
STEVEN ALAN HONLEY, OF LOUISIANA
MICHAEL STEPHEN HOZA, OF SOUTH CAROLINA
LISA BOBBIE SCHREIBER HUGHES, OF PENNSYLVANIA
RUSSELL PIERSON INGRAHAM, OF VIRGINIA
BERNADINE RUTH JOSELYN, OF MINNESOTA
ROBERT KANEDA, OF CALIFORNIA
EDWARD WESLEY KASKA, JR., OF TEXAS
SUSAN ELIZABETH KEMPE, OF NEW MEXICO
LAURA JEAN KIRKCONNELL, OF FLORIDA
JOHN LOUIS LISTER, OF CALIFORNIA
JOEL ROBERT MALKIN, OF NEW YORK
THEODORE ALBERT MANN, OF NEW YORK
SCOT ALAN MARCIEL, OF VIRGINIA
ANDREA STOWE MATHEWS, OF CONNECTICUT
ELIZABETH MONTAGNE, OF ILLINOIS
RICHARD HOWELL MORGAN, OF LOUISIANA
THEODORE ARTHUR NIST, OF SOUTH DAKOTA
SARAH KELLOGG OTIS, OF VIRGINIA
REX-MARC PATTERSON, OF NEW YORK
JULIANA SEYMOR PECK, OF CONNECTICUT
GEORGE DOUGLAS REASONOVER, JR., OF TEXAS
LINDA SUSAN RECHT, OF NEW JERSEY
CHRISTOPHER JOHN RICHARD, OF TEXAS
ELIZABETH MARY HOLZHALL RICHARD, OF TEXAS
ROBERT BRIAN RINK, OF NEW JERSEY
DANIEL RICHARD RUSSEL, OF CALIFORNIA
DAVID R. SALAZAR, OF CALIFORNIA
MELISSA MARIE SANDERSON, OF OHIO
STEVEN R. SLATIN, OF WEST VIRGINIA
GEORGE SMITH SOUTHERN, OF FLORIDA
DERWOOD KEITH STAEBEN, OF WISCONSIN
MARK CHARLES STORELLA, OF MASSACHUSETTS
ELIZABETH D. THOMPSON, OF FLORIDA
TRUDIE ELIZABETH THOMPSON, OF TEXAS
BRUCE IRVIN TURNER, OF COLORADO
RUTH DOROTHY WAGONER, OF CALIFORNIA
WILLIAM DAVID WALLACE, OF NEW JERSEY
SANDRA MARIE WENNER, OF MICHIGAN
CYNTHIA L. WHITTLESEY, OF COLORADO
BRUCE WILLIAMSON, OF CALIFORNIA
BEVERLY ROTH YETT, OF FLORIDA
WHITNEY LANE YOUNG, OF NORTH CAROLINA
MARIE L. YOVANOVITCH, OF CONNECTICUT

U.S. INFORMATION AGENCY

JAMES D. CHRISINGER, OF IOWA
ROBERT LAWRENCE DALY, OF NEW YORK
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JUDITH R. GREENSPAN, OF INDIANA
ROBERT HALLAUER, OF WASHINGTON
STANLEY JOHN HARSHA, OF COLORADO
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TIMOTHY MOORE, OF CALIFORNIA
STEPHEN BYARS MORISSEAU, OF CALIFORNIA
JONATHAN K. RICE, OF NEW HAMPSHIRE
WILLIAM EDGAR RICHEY, OF TEXAS
DANIEL T. SAINT-ROSSY, JR., OF THE DISTRICT OF COLUMBIA
NORMA D. SCOTT, OF VIRGINIA
THOMAS FLAKE SKIPPER, OF NORTH CAROLINA
TERENCE J. SPENCER, OF NEW YORK
GERRI LYNNE WILLIAMS, OF MINNESOTA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE, AGRICULTURE AND COMMERCE, TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

ROBERT A. AJTAJI, OF VERMONT
FRANCIS X. ARCHIBALD, JR., OF SOUTH CAROLINA
EDWARD J. BARR, OF MAINE
COLOMBIA DE LOS ANGELES BARROSSE, OF VIRGINIA
JAMES M. BEARDSLEY, OF VIRGINIA
VICTOR M. BELZ, OF TEXAS
ROBERT E. BLAIR, OF MINNESOTA
JAMES ALBERT BOUGHNER, OF OHIO
MELINDA M. BRIAN, OF LOUISIANA
RANDALL CLIFFORD BUDDEN, OF MICHIGAN
MARK PAUL CHADASON, OF NEW YORK
DANE L. CHAMORRO, OF CALIFORNIA
BARRY D. COLEMAN, OF DELAWARE
THOMAS FREDERICK DAUGHTON, OF ARIZONA
JOHN WINTHROP DAYTON, III, OF TEXAS
DOROTHY L. DUBOIS, OF TEXAS

CATHLEEN L. DUNFORD, OF VIRGINIA
JAMES P. FINKEL, OF VIRGINIA
ROBERT WILLIAM FORDEN, OF CALIFORNIA
MICHAEL GAFFNEY, OF VIRGINIA
JEROME DOUGLAS GAINES, OF TEXAS
LESLIE K. GOLDSMITH, OF VIRGINIA
DAVID R. GALINDO, OF CALIFORNIA
ROBERT EMILIO GIAN, OF VIRGINIA
ETHAN AARON GOLDRICH, OF NEW YORK
GAMAL R. GRAISS, OF NEW YORK
KATHLEEN DANA HANSON, OF MICHIGAN
FELIX HERNANDEZ, JR., OF CALIFORNIA
JAMES F. HOLMBERG, OF FLORIDA
DANIEL HOLTZMAN, OF NEW YORK
MARGARET A. JEZEK, OF CONNECTICUT
NANCY C. JOHNSTON, OF THE DISTRICT OF COLUMBIA
LAURENCE KENT JONES, OF CALIFORNIA
GERALD W. JOYCE, JR., OF PENNSYLVANIA
RICHARD P. KALLMANN, OF TEXAS
EILEEN KANE, OF NEW YORK
STEPHEN L. KONTOS, OF NEW YORK
MICHELLE LA BONTE, OF MASSACHUSETTS
CHRISTINE LEE, OF THE DISTRICT OF COLUMBIA
JAN C. LEE, OF VIRGINIA
MATTHEW FRANKLIN LEVEY, OF CONNECTICUT
THOMAS M. MAHER, OF VIRGINIA
THOMAS AQUINAS MARTEN, OF VIRGINIA
FRANCIS E. MCLENNAND, JR., OF CALIFORNIA
MARINA MORGENEGG, OF VIRGINIA
WALTER P. MORRISON, OF VIRGINIA
JOHN K. MULLEN, OF WASHINGTON
BRIAN ANDREW NICHOLS, OF RHODE ISLAND
HOLLY A. OGLESBY, OF TEXAS
STEVEN M. O'REILLY, OF MARYLAND
ROBERT W. OUDEMANS, OF MARYLAND
JOHN SANG-GWON PAK, OF WASHINGTON
JOSEPH S. PENNINGTON, OF FLORIDA
BLOSSOM NAOMI SANBORN PERRY, OF VIRGINIA
LISA J. PETERSON, OF NEW YORK
ANN ELIZABETH PFORZHEIMER, OF THE DISTRICT OF COLUMBIA
H. DEAN PITTMAN, OF MISSISSIPPI
MARK JUSTIN POWELL, OF VIRGINIA
LOIS A. PRICE, OF OREGON
RENE A. RAIOLE, OF VIRGINIA
WILLIAM L. RAPP, JR., OF VIRGINIA
TIMOTHY M. REILLY, OF THE DISTRICT OF COLUMBIA
ERIC JAMES RUETER, OF CALIFORNIA
EMMETT JEROME RYAN, JR., OF TEXAS
ROY EDWARD SANDERS, OF VIRGINIA
TIMOTHY GERALD RYAN, OF VIRGINIA
RICHARD SCOTT SACKS, OF MASSACHUSETTS
PATRICIA ANNE SHEEHAN, OF VIRGINIA
ROBERT JOEL SILVERMAN, OF NEVADA
SARAH A. SOLBERG, OF UTAH
WILLIAM LEE STEPHENS, JR., OF MARYLAND
KENNETH THOMPSON STRINGER, JR., OF VIRGINIA
TIFFANY ROBERTA TAFARES, OF FLORIDA
BRUCE TEBSHERANY, OF VIRGINIA
MICHAEL P. TIERNAN, OF VIRGINIA
PEDRO J. TIRADO, OF VIRGINIA
CAROL TRIMBLE, OF ILLINOIS
THOMAS ALAN UNDERWOOD, OF THE DISTRICT OF COLUMBIA
JAMES P. VAIL, OF KANSAS
MARTIN A. VAIL, JR., OF VIRGINIA
R. STEVEN VOIEN, OF CALIFORNIA
KEVIN J. WARD, OF VIRGINIA
NICHOLAS E. WARE, OF CALIFORNIA
DAVID M. WATERMAN, OF CALIFORNIA
JAMES LOUIS WAYMAN, OF VIRGINIA
LINDA K. WELCH, OF WISCONSIN
MARK CHARLES WESTFALL, OF VIRGINIA
CAROLE E. WEVER, OF VIRGINIA
JANET S. WHITESIDE, OF VIRGINIA
CYNTHIA A. WILHELM, OF FLORIDA
ROBERT W. WOODS, OF VIRGINIA
DONNA KATHRYN WOODWARD, OF PENNSYLVANIA

CONSULAR OFFICERS OF THE UNITED STATES OF AMERICA:

ALI BEN AIDA, OF VIRGINIA
THOMAS BILLAK, OF PENNSYLVANIA

SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

TAPAN BANERJEE, OF VIRGINIA
RICHARD S. KANTER, OF HAWAII
JOHN T. SHEELY, OF VIRGINIA

IN THE ARMY

THE FOLLOWING-NAMED ARMY MEDICAL CORPS OFFICERS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624(C):

To be permanent major general

BRIG. GEN. RICHARD D. CAMERON, xxx-xx-xxxx U.S. ARMY.
BRIG. GEN. GIRARD SEITTER III, xxx-xx-xxxx U.S. ARMY.

To be permanent brigadier general

COL. JAMES E. HASTINGS, xxx-xx-xxxx, U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 611(A) AND 624:

To be permanent brigadier general

COL. MATTHEW A. ZIMMERMAN, xxx-xx-xxxx U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370.

To be admiral

ADM. JAMES B. BUSEY, xxx-xx-xxxx/1230, U.S. NAVY.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE. (EFFECTIVE DATE FOLLOWS SERIAL NUMBER)

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJOR PATRICK J. BELANGER, xxx-xx-xxxx 12/20/88
MAJOR GUILLERMO BERTRAND, xxx-xx-xxxx 11/18/88
MAJOR LANCE J. BESSER, xxx-xx-xxxx 1/8/89
MAJOR TERRY R. BISTODEAU, xxx-xx-xxxx 10/21/88
MAJOR BRENDAN P. BONNER, xxx-xx-xxxx 12/3/88
MAJOR ARTHUR J. BUGBEE, xxx-xx-xxxx 1/3/89
MAJOR JAMES E. CALDWELL, JR., xxx-xx-xxxx 12/20/88
MAJOR GEORGE J. CANNELOS, xxx-xx-xxxx 11/5/88
MAJOR JOHN M. DEMPSEY, xxx-xx-xxxx 1/7/89
MAJOR THOMAS L. DICKENS, xxx-xx-xxxx 12/10/88
MAJOR IRVING R. GILSON, xxx-xx-xxxx 12/3/88
MAJOR RICHARD M. GREEN, xxx-xx-xxxx 12/2/88
MAJOR PHILIP G. HALLAM, JR., xxx-xx-xxxx 12/27/88
MAJOR JAN C. HOFFMASTER, xxx-xx-xxxx 1/19/89
MAJOR DAVID K. JACKSON, xxx-xx-xxxx 1/8/89
MAJOR LANGFORD L. KNIGHT, xxx-xx-xxxx 1/12/89
MAJOR ROBERT F. LEMOINE, xxx-xx-xxxx 1/6/89
MAJOR JAMES F. MCCARVEL, xxx-xx-xxxx 10/21/88
MAJOR TERRENCE J. ROGAN, xxx-xx-xxxx 1/7/89
MAJOR ARMANDO ROSADO, xxx-xx-xxxx 11/10/88
MAJOR JOSEPH G. SCAVUZZO, xxx-xx-xxxx 12/29/88
MAJOR ARTHUR F. SCHAEFER, xxx-xx-xxxx 1/8/89
MAJOR GEORGE W. WASHCO, xxx-xx-xxxx 12/11/88

MEDICAL CORPS

To be lieutenant colonel

MAJOR ALI MANSOURI, xxx-xx-xxxx 1/7/89

NURSE CORPS

To be lieutenant colonel

MAJOR BETTY J. KUPP, xxx-xx-xxxx 12/4/88

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

DENTAL CORPS

To be lieutenant colonel

*JUAN M. RICO, xxx-xx-xxxx

ARMY MEDICAL SPECIALIST CORPS

To be major

*RAYMOND J. STRUTH, JR., xxx-xx-xxxx

IN THE NAVY

THE FOLLOWING NAMED FORMER U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

DOUGLAS GIBSON
ARTHUR P. HETHERINGTON
WILLIAM T. MERRITT
CLIFFORD J. NEMETH

THE FOLLOWING MEDICAL COLLEGE GRADUATES TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593.

PEDRO B. FERNANDEZ
JAMES E. KEASLING

THE FOLLOWING FORMER U.S. ARMY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE SECTION 593.

JAMES N. WHEELER

CONFIRMATIONS

Executive nominations confirmed by the Senate April 18, 1989:

DEPARTMENT OF JUSTICE

WILLIAM PELHAM BARR, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

INTERNATIONAL BANKS

RICHARD THOMAS MCCORMACK, OF PENNSYLVANIA, TO BE UNITED STATES ALTERNATE GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF FIVE YEARS; UNITED STATES ALTERNATE GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT FUND; AND UNITED STATES ALTERNATE GOVERNOR OF THE ASIAN DEVELOPMENT BANK.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.